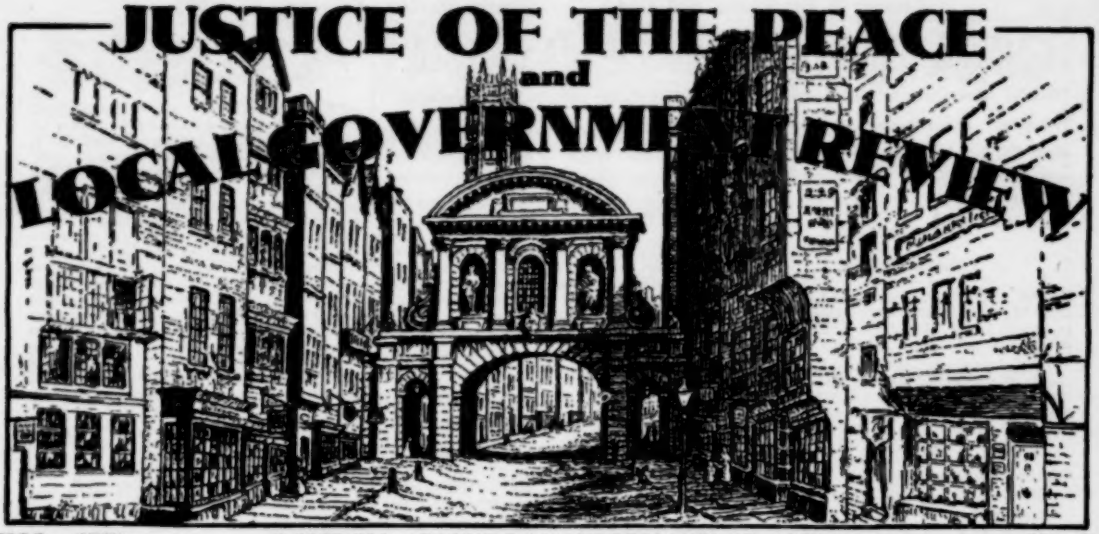

VOL. CXV. LONDON: SATURDAY, FEBRUARY 17, 1951. No. 7

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REPORTS

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

BOROUGH AND COUNTY OF THE TOWN OF POOLE
(Population 82,000)

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor; salary in accordance with Grade VIII of the A.P.T. Division of the National Scale of Salaries.

Further particulars of the appointment, and forms of application may be obtained from the undersigned, to whom completed application forms should be returned not later than March 7, 1951.

WILSON KENYON,
Town Clerk.

Municipal Buildings,
Poole, Dorset.

CITY OF BIRMINGHAM

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the above appointment.

Applicants must be not less than 23 years, nor more than 40 years of age (except in the case of persons qualified under Rule 44).

The appointment will be subject to the Probation Rules, 1949-1950, and the salary will be in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of three recent testimonials, should be addressed to me within twenty-one days from the publication of this advertisement.

T. M. ELIAS,
Secretary to the Probation Committee.

Victoria Law Courts,
Birmingham, 4.

COUNTY OF BUCKINGHAM

Appointment of Whole-time Male Probation Officer

THE Buckinghamshire Combined Probation Committee invite applications for the appointment of a male whole-time Probation Officer to serve in the Slough and Burnham Petty Sessional Divisions.

The appointment and salary will be subject to the Probation Rules, 1949 and 1950. Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving whole-time Probation Officer. The selected candidate will be required to pass a medical examination. Applications, stating age, present position, qualifications and experience, together with the names of at least two referees, should reach the undersigned not later than March 3, 1951.

GUY R. CROUCH,
Clerk of the Peace for Bucks.

County Hall,
Aylesbury, Bucks.
February 1, 1951.

BRECONSHIRE COMBINED AREA PROBATION COMMITTEE

APPLICATIONS are invited for a part-time Probation Officer (Female) for the Northern and Southern Divisions of the Combined Area, respectively. Further particulars and application forms from the undersigned.

C. M. S. WELLS,
Secretary of the Committee.

County Hall,
Brecon.

BOROUGH OF WIDNES

Appointment of Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor on the permanent establishment at a salary within A.P.T. Grade VII (£635—£710).

The commencing salary will be fixed having regard to the experience of the successful candidate.

The appointment is subject to the Local Government Superannuation Act, 1937, and to the National Scheme of Conditions of Service as adopted by the council and is terminable by one month's notice. The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, and giving the names of two persons to whom reference can be made, must be delivered to the undersigned not later than Wednesday, February 21, 1951.

Canvassing, directly or indirectly, will disqualify.

FRANK HOWARTH,
Town Clerk.

Town Hall,
Widnes.
February 5, 1951.

BOROUGH OF ANDOVER

Assistant Town Clerk

APPLICATIONS are invited for the above post from persons having good administrative experience at a salary within A.P.T. Grades Va and VI (£550—£660), the commencing salary being fixed with regard to qualifications and experience. Knowledge of the legal work of a Town Clerk's Department will be an advantage.

The appointment will be subject to (1) one month's written notice on either side; (2) the Local Government Superannuation Act, 1937; (3) the National Conditions of Service; (4) the successful candidate passing a medical examination.

Applications stating age, qualifications and experience, and giving the names of two persons to whom reference can be made, must be delivered to the undersigned not later than Friday, February 23, 1951. Canvassing disqualifies.

J. F. GARNER,
Town Clerk.

"Beech Hurst,"
Weyhill Road,
Andover.

ST. PANCRAS BOROUGH COUNCIL

Appointment of Legal Assistant

APPLICATIONS for above appointment invited from admitted Solicitors. Salary on first appointment in accordance with A.P.T. Grade Va (£550 × £20—£610). After two years' legal experience from date of admission A.P.T. Grade VII (£635 × £25—£710). London weighting allowance (according to age) payable in addition to above-mentioned salary scales. Appointment subject to National Scheme and Local Government Superannuation Act, 1937. Applicants must disclose in writing whether related to any member or senior officer of the Council. Canvassing disqualifies. Council unable to assist with housing accommodation. Applications by letter addressed to undersigned, stating age, education, qualifications, date of admission, experience, present and previous engagements, etc., with names of three referees, must be received by March 7, 1951.

R. C. E. AUSTIN,
Town Clerk.

St. Pancras Town Hall,
Euston Road, N.W.1.
February 8, 1951.

GLOUCESTERSHIRE COUNTY COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited from solicitors for the whole-time permanent appointment of Assistant Solicitor on the staff of the Clerk of the County Council. The salary scale for the appointment will be £1,000 per annum, rising by £100 annually, to £1,200 per annum.

Candidates must have been admitted at least three years and have had good experience of advocacy at Petty Sessions and County Courts and must be capable of instructing Counsel at Assizes and at Quarter Sessions. Knowledge of local government administration and committee work would be an advantage.

The successful candidate must pass a medical examination and the appointment, which is superannuable, will be terminable by three months' notice in writing on either side.

Applications, stating age, qualifications and experience, and giving the names of two referees, should be received by the undersigned not later than February 28, 1951.

Canvassing will disqualify.

GUY H. DAVIS,
Clerk of the County Council.

Shire Hall,
Gloucester.

LECTURES

GRESHAM COLLEGE, Basinghall St., London, E.C.2. Four Lectures on "CRIME AND PUNISHMENT" by Richard O'Sullivan, Esq., K.C., on Monday to Thursday, February 19 to 22. The Lectures are FREE and begin at 5.30 p.m.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (Hoylands), **Ex-Detective Sergeant.** Member of B.D.A. and F.B.D. DIVORCE—CONFIDENTIAL ENQUIRIES, ETC., anywhere. Over 400 agents in all parts of the U.K. and abroad. 1, Mayo Road, Bradford. Tel. 26823, day or night.

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

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NOTES of the WEEK

Conditional Discharge

Section 2 of the Probation of Offenders Act, 1907, enabled a court which discharged a defendant (without making a probation order) conditionally on his entering into a recognizance to be of good behaviour, etc., to insert in the recognizance such additional conditions in respect to residence, abstention from intoxicating liquor, and any other matters as the court, having regard to the particular circumstances of the case, considered necessary for preventing a repetition of the offence or the commission of another offence. Under the Criminal Justice Act, 1948, a court which discharges an offender subject to the condition that he commits no offence during the period of conditional discharge, has no power to insert any further requirement in the order. No doubt the law was recast in this form since the experience of the working of the Probation of Offenders Act had shown that where the court thought it necessary to insert additional conditions in the recognizance, it was generally necessary to go a step further and place the defendant under supervision. Occasionally, however, there were cases where the courts found it desirable to insert such special conditions although supervision was not necessary or desirable. We are reminded of this by reports in the press according to which a metropolitan magistrate discharged two young serving soldiers, who had been convicted by him under the Vagrancy Act of loitering with intent to steal, on condition that they were in barracks every night during the next year at midnight. The newspaper reports are not clear on this, but it may be presumed that the defendants were placed on probation, otherwise the court would not have had the power to insert such a condition. However, it seems very doubtful if a probation officer is in a position to exercise any real supervision in such circumstances —indeed the fact that a probationer joins the Army is frequently a ground on which an order is discharged—and the court may well have regretted that the powers it formerly possessed under the 1907 Act no longer exist.

Protecting the Public

We regret to see from an article in the January, 1951, issue of the *Monthly Review* of the Institute of Weights and Measures Administration that our note of the week with the above title published at 114 J.P.N. 594, has created an impression which we had no desire to give. We certainly had no intention to imply that inspectors of weights and measures, in checking the weights of pre-packed articles of food, are doing other than their proper duty, and when we said that "sooner or later, when statements are made that extra burdens and duties are being cast upon certain sections of public employees, there will come a request for extra staff to assist in the performance of those extra duties" we thought that we were merely stating and emphasizing an obvious fact. If extra duties are put upon a body of persons there is bound to come a time when the existing number of people cannot cope with them, and more have necessarily to be employed.

The whole point of our note was intended to be not that there was any ground for complaining of the work done by the inspectors, but that there is an undue and growing tendency amongst a considerable section of the public to regard everything as being the duty and responsibility of someone other than themselves and to seek to avoid the, to them, unpleasant task of standing on their own feet. The State or the local authority must, in the view of such people, provide for all their needs, and must fetch and carry for them from the cradle to the grave. Individual responsibility and sturdy self-reliance are not for them.

The article to which we have referred points out difficulties which the individual shopper may encounter in trying to protect himself from unjust weights, and we acknowledge the force of the arguments put forward. In conclusion we repeat that we were offering no criticism of the inspectors, and we are glad to make this abundantly clear.

Corrective Training

A sentence of corrective training, under s. 21 (1) of the Criminal Justice Act, 1948, may be of not less than two and not more than four years. The Court of Criminal Appeal dealt in *R.* v. *Albury* (*see post* p. 106) with the question of consecutive sentences of corrective training. The matter had been referred to the court by the Secretary of State under s. 19 (*a*) of the Criminal Appeal Act, 1907.

The prisoner had been sentenced to two years in November, 1949, and afterwards admitted certain other offences and was sentenced for a further two years to commence at the expiration of the first sentence.

The Court held without hesitation that the principle of *R.* v. *Wilkes* (1770) 19 State Trials 1075 applied, and that consecutive sentences of corrective training were lawful. As to the exercise of the power to pass such a sentence, the Lord Chief Justice said the Court of Criminal Appeal had more than once expressed the view that corrective training should usually be for at least three years, which meant release after two years as the result of good behaviour. In the present case, the court would alter the second sentence to one of two years and eight months to run concurrently with the other sentence, with the same result as if the first sentence had been one of three years.

Corrective training is intended to be a special form of imprisonment with reform of the prisoner as a principal object,

and it is said to embody some of the ideas on borstal training, which can be used in the case of persistent offenders who are above borstal age. Presumably it was thought desirable to fix the maximum sentence at four years, because it was considered that if corrective training could not fulfil its object in that time it was not likely to succeed. We cannot predict what would be the decision of the Court of Criminal Appeal if sentences of corrective training, to run consecutively, aggregated, say, six or eight years, but we do not think it likely that such sentences will be passed, and *R.* v. *Albury*, *supra*, is an instance of the reduction of a period of four years to three.

It will be remembered that under s. 19 of the Criminal Appeal Act, 1907, the Home Secretary may refer a case to the court where he has received a petition or representations, in which case the matter is treated as if it were an appeal; or he may refer some particular point to the court for its consideration.

Execution of English Warrant in Eire

It was decided by the Divisional Court in *R.* v. *Commissioner of Police and Another, Ex parte Nalder* [1947] 2 All E.R. 611, that a warrant of arrest for an offence, which had been issued in Eire, could be lawfully endorsed and executed in England in pursuance of s. 12 of the Indictable Offences Act, 1848.

It is satisfactory to know that the practice of sending English warrants to Eire for execution is also effective and that the Supreme Court in Eire has held that English warrants can still be executed there.

The Irish Law Times and Solicitors' Journal refers to a case heard at the end of last term. An Irish citizen had been arrested in Eire on a charge of false pretences, the warrant having been issued by a London magistrate and endorsed for execution by the Assistant Commissioner of the Civic Guard. The prisoner made application for *habeas corpus*, and eventually the matter came before the Supreme Court. His main contention was that (we quote from the *Irish Law Times and Solicitors' Journal*): "Section 29 of the Petty Sessions (Ireland) Act, 1851, ceased to be operative after the Constitution came into operation, as it was inconsistent with art. 29 thereof. It was also contended that the section of the Act was inconsistent with arts. 1, 5, 6 and 9 of the Constitution. The Court considered (*inter alia*) the Constitution, the generally recognized principles of international law, and the law relating to extradition, and held that there is no generally recognized principle of international law which forbids the surrender in accordance with s. 29 of the Petty Sessions Act, 1851, to Great Britain of persons, whether Irish citizens or others to answer a criminal charge. This section was carried over by the Constitution as part of the laws in force and if modification is to be made in it that would be a matter for the Legislature."

The Care of "Deprived Children"

At a recent conference on research in child care held in the London School of Economics, which was attended by representatives of administration and by others representing academic and research work, various suggested lines of inquiry were discussed, some of them having apparently already been begun by individual members. One member mentioned a study of foster homes which she had started, and suggested that the Ministry of Pensions could help in a foster home inquiry. Another member referred to a survey in connexion with adopted children with relation to their real parents and the attitude towards adoptive parents of their relatives.

Another experiment being conducted is that of boarding out children of defective parents, with a view to ascertain if such children proved to be so defective as to need to be retained in institutions.

There was a feeling that much information was being obtained by many children's departments working separately, and that there would be great advantage in collecting such information so that it could be dealt with by statistical and other expert workers.

The conference set up a working committee which is anxious to receive information about all pieces of research inquiry or experiment, however small, which are at present being carried out within the field of child care. Communications will be welcomed by Dr. D. H. Stott, 41, Upper Bridge Road, Redhill, Surrey.

The Analyst's Certificate

In *McCulloch* v. *Hannam*, *see* p. 70, *ante*, an appeal by Case Stated, the Divisional Court dealt with the admissibility of the certificate of the public analyst which was put in by the prosecution and called in question by the justices. The alleged offence was against s. 24 (1) (*c*) of the Food and Drugs Act, 1938, in respect of milk. The analyst's certificate included the following statement: "As the result of my analysis I am of opinion that the constituents of the sample included the following substances in proportions as under:

Total milk solids	10.54 *per cent.*
Including:	
Milk fat	3.20 *per cent.*
Milk solids other than milk fat	7.34 *per cent.*
and that it consisted of:	
Milk ..	not more than 87 parts *per cent.*
Added water ..	at least 13 parts *per cent.*

"This opinion is based on the above figures and on the Sale of Milk Regulations, 1939. The presence of added water was confirmed by the freezing point."

The justices were of opinion that the statement in the certificate that the sample consisted of at least thirteen parts *per cent.* added water was a statement of opinion based upon the facts disclosed by the analysis and upon the fact of the freezing point (although it was not stated what that point was) and not a statement of fact and was therefore not admissible by virtue of s. 81 of the Act, without the public analyst being called as a witness. They dismissed the information, and the prosecutor, a sampling officer of the Dorset County Council, appealed.

The Lord Chief Justice in his judgment said the magistrates had taken too narrow a view. The certificate was in the prescribed form and the case must go back to the magistrates with an intimation that the certificate was admissible evidence in full and showed there was added water to the milk.

Certificates in similar terms have, we believe, been frequently accepted without question. An analyst is an expert, and if he were called as a witness he would doubtless be asked for his opinion, probably by both parties. Here, of course, the point was taken by the court that he was not called and should have confined himself to matters of fact. It would be difficult, however, to draw the line between statements of fact, calculations and inferences and expert opinion. It is necessary, as the Divisional Court held, not to take too narrow a view in this matter.

Enforcing Orders for Damages, etc.

The Court of Criminal Appeal held in *R.* v. *Parry and Others* (1950) 115 J.P. 14, that although s. 13 of the Criminal Justice Act, 1948, empowers a court before which a defendant is convicted on indictment of a felony to fine the offender in addition

to dealing with him in any other lawful manner, nevertheless it is not open to the court to fine a defendant and at the same time to make a probation order. In the course of his judgment Lord Goddard referred to the power given by s. 11 (2) to order the defendant to pay damages or compensation, and to subs. (3) which provides that such an order may be enforced " in like manner as an order for the payment of costs by the offender " and he added " that is to say, as a civil debt and not in any way as the result of an offence carrying the sanction of imprisonment or other punishment administered corporeally. Damages or compensation are in no sense a fine. A fine can always be enforced by imprisonment, but damages or compensation cannot."

As far as orders for the payment of costs (and therefore orders under s. 11 for compensation or damages) made by courts of summary jurisdiction are concerned it has generally been the opinion that they are enforceable in accordance with the provisions of s. 18 of the Summary Jurisdiction Act, 1848, *i.e.*, by imprisonment in default of distress, subject to the limitations imposed by the Money Payments (Justices Procedure) Act, 1935. On the face of it Lord Goddard appears to have disapproved of such a view, but it must be remembered that the case then before the court came from a court of quarter sessions, and no doubt Lord Goddard had in mind such costs as those awarded under the Costs in Criminal Cases Act, 1908. If his attention had been specifically drawn to the enforcement of costs imposed by a court of summary jurisdiction it is possible that he might have accepted an argument that in such cases orders for damages and compensation can be enforced by imprisonment.

Annual Reports

There has been a tendency in recent years for annual reports of government departments to be made more interesting instead of being in the dry form which used to be one of the characteristics of many " blue books " even although they may have been written in good English. The last report of the National Assistance Board was an excellent example of a departure from the old style. The annual reports of medical officers of health should be of great interest to those who have, through the rates, to pay for the local health services, but the reports necessarily contain much statistical information. They can, however, be made interesting. We are prompted to this view after reading the recently issued annual report of Dr. Fraser Brockington, M.A., M.D., medical officer of health for the West Riding County Council. It is customary for the medical officer to write a personal introduction to his report, but when a doctor starts his introduction with the words—" Health costs money and like every other saleable commodity must follow the laws of commerce. We buy what we can afford and the best for the money," the interest of the reader must be at once aroused. This shows the general style adopted by Dr. Brockington. He points out clearly that when money is spent on health there is a set-off in the amount recovered by reason of the output of work of a healthy individual in contrast " to his dead loss when totally incapacitated and his reduced efficiency when below par." He then explains how preventative medicine can save money and in this connexion an example is given of the cost of institutional treatment of diphtheria, which has reduced very considerably since the immunization campaign was introduced. As Dr. Brockington points out " money spent in the prevention of disease is richer in economic return than the same sum spent in its cure ; indeed, if the health services were to be put on to a complete business footing the financiers might insist upon a total mobilization of our forces into the preventive field." He says further : " There are, of course, many reasons why this is not done ; the centring of medical thought upon disease and its treatment has not encouraged the public to appreciate the possibilities of prevention, the glamour of sickness and its drama in our lives, the forcefulness of the concrete and the difficulty of comprehending the abstract, the element of mystery in the compounding of remedies, in the stethoscope, the microscope, the surgeon's knife and the post-mortem room, the greater ease with which an economic return for treatment can be calculated."

The question is raised as to whether maternity accommodation is now economically used. Institutional midwifery is a costly process amounting to fifteen to twenty guineas a week ; but in terms of health it has nothing to offer over a well conducted home delivery and in terms of society it is considered at least doubtful whether it improves family life. It is suggested, therefore, that it should be reserved for women who need institutional treatment on medical and social grounds and it should be regarded as essentially a preventive institution to protect the community health. Turning to the relationship of the medical officer of health to the community, it is pointed out that the science and art of medicine has created the gospel of the " doctor-patient relationship," but the fundamental concept of executive social medicine is the " doctor-community relationship." It is urged, however, that few problems of social medicine are capable of satisfactory solution by independent units ; and the importance of this one fact needs to be more generally understood and accepted if executive social medicine is to play the role in our community life of which expanding knowledge makes it capable and it must not be supposed that independent medical advice can give the integration which is essential to success.

Playgoing Councillors

One of the directors of a company which owns a group of provincial newspapers, circulating far from the borough of which we spoke in our note " Free Seats for Councillors " at p. 51, *ante*, sends us, with a request for anonymity, a comment on that note, suggesting that we have there done less than justice to the argument in favour of this practice, on the ground (as has been pleaded) that it is the duty of councillors to see that nothing indecent or unseemly occurs in a performance for which the council is responsible. Our correspondent concedes that an official could perfectly well attend to that, but urges that there is " more to it." Since his argument is likely to be used by others, we will state it and examine it. When (says he) a council is directly responsible for, say, the local waterworks, it is desirable that the councillors should know more about its working than simply that the water is not poisonous. So when the council is responsible for a concert party or a repertory company, it is desirable that some at least of the councillors—and not only those on the entertainments committee—should have a first-hand experience of the show, such as can be obtained only by attendance at it. Our correspondent concedes that no valid argument exists " for councillors filling the theatre with their sisters and cousins or aunts ; or for their occupying the best seats, *or any seats which would otherwise be sold at the box office*. (Italics ours). But (he asks) if a council is going into the entertainment business, its members ought to know what they are providing. How, then, are they going to know ? " Now in what he here concedes he has conceded the point we are concerned to make. We are not advocating ignorance on the part of councillors : we are attacking privilege. Councillors who visit the waterworks in order to see for themselves how the wheels go round are not obtaining, gratuitously, an entertainment for which other people have to pay. Most local authorities, it may be hoped, have by now a standing order, in the sense of the model standing order printed by *Lumley* at p. 3282, which precludes a councillor from visiting the water-

works and similar establishments except when authorized by the council or a committee of the council; when these authorized visits do take place, those local authorities who have made the visits an excuse for providing councillors with free meals and free liquor at the public cost have found the district auditors decidedly (and most properly) objecting—if the expense appeared in audited accounts. (True, the most shocking instances known to us of this particular abuse have related to establishments belonging to large municipal corporations, where district audit did not apply, so that lavish provision for entertaining councillors was made with impunity, but two wrongs do not make a right.) One way, suggests our correspondent, of securing to councillors adequate knowledge of theatrical fare provided on municipal premises, and keeping them, as part of their duty, informed of what goes on in their domain, would be for councillors to attend and pay as ordinary members of the public; this was our own suggestion. But this, he thinks, is in conflict with the doctrine that no one should be debarred by financial disability from undertaking any public duties, while enabling councillors to reclaim money spent on attending municipal entertainments in the course of duty, in the same way as they can now claim for "loss of remunerative time," would be "ridiculous." We cannot see it. If a councillor goes from Casterbridge to London he claims his travelling expenses, and could do so under the law as it stood before 1948. He could equally claim the expense of getting to the waterworks, if they were outside Casterbridge and he was authorized to go there. Under the Local Government Act, 1948, he can claim the expenses of going to waterworks within the borough, or to the pier pavilion, or even to the council chamber, if not within three miles of his home. We cannot see the smallest difficulty about enabling him to claim the half crown or whatever be the cost of an admission ticket, if he has gone to the pavilion in execution of his duty. If duly authorized, he could (as our correspondent has also suggested) go without paying to some part of the premises not available upon payment to the public—though we are not sure this is a good suggestion. The experience of Johnson, which was a trouble to his scruples and led him to decline Garrick's renewed invitation to go behind the scenes, might itself be thought to smack of privilege; councillors who could go upon the premises without paying would, by some of their constituents, be all the more envied, if this meant going into parts not accessible to other folk. If, therefore, they must investigate the fare provided for the public, we say they had better do it from the public seats. By all means let the public repay the councillor, if the council or committee so resolves, the repayment being shown as such in their accounts. What we object to is not knowledge on the part of councillors of what goes on, or even the councillor's going to the show without cost to himself, provided this is done in the proper way. We object to its being done in a manner which involves a loss to the rate fund (not evidently shown in the accounts), and a loss to profit-sharing performers on the premises; above all, we object to perquisites of office.

VENUE UNDER THE GUARDIANSHIP OF INFANTS ACTS

"The purpose of the Act (*i.e.*, the Maintenance Orders Act, 1950) is to enable wife-maintenance, guardianship of infants, affiliation and certain analagous orders to be made and enforced throughout the United Kingdom"—so reads Home Office Circular 241/1950. Those with only superficial knowledge of the subject might deduce from this that all problems relating to jurisdiction or venue have now been smoothed out, and that orders of the kinds referred to may now be obtained freely throughout the United Kingdom. Except for wife-maintenance orders nothing could be further from the truth than this. It is true that the extension of jurisdiction *vis-a-vis* England and Scotland or Northern Ireland will facilitate proceedings where parties reside, one in one and the other in another of these countries, but we are still left with unfortunate restrictions where both parties reside in England.

In affiliation cases where the alleged putative father resides in England, the mother may still apply for an order only in the court for the area where she resides (Bastardy Laws Amendment Act, 1872) and in guardianship cases only in the court for the area where the respondent resides (*R.* v. *Sandbach JJ., Ex parte Smith* [1950] 2 All E.R. 781). So far as guardianship cases are concerned the position sometimes approaches the farcical. A woman resident in Scotland or Northern Ireland may apply in England for an order for custody of her child, if her husband lives in England. A woman residing with her child in England may apply for such an order in the court for the area where she resides if her husband resides in Scotland or Northern Ireland (s. 2, Maintenance Orders Act, 1950). If, however, the mother lives in, say Truro, and her husband in Manchester, she may take action only in Manchester, by virtue of the decision quoted above, or she has to incur the expense of bringing an action in the High Court. The hardship this decision has brought about is considerable as there are many cases where women have not been able to afford the expense of taking proceedings hundreds of miles from home or in the High Court. It was once common for a magistrates' court to grant a woman an order under the Guardianship of Infants Acts after she had failed to establish a case for her own maintenance under matrimonial law. Now, if the respondent lives in another area, both parties have to be put to the inconvenience of having to face another hearing in another court—always assuming that the applicant can afford to take proceedings in that court. An example of what actually occurred as a result of this decision should make further argument unnecessary. A woman obtained an order under the Guardianship of Infants Acts in the town in the extreme north of England where she resided; her husband lived in the south. As soon as the decision was published he went to the expense of travelling to the north and having the order revoked on the "fresh evidence" that the court had no power to make the order. His wife then travelled south and obtained a fresh order in the court for the place where he resided. Thus, after the expenditure of much money and time, the parties were back to the position that formerly existed.

It is indeed anomalous that this limitation in respect of venue should be allowed to exist. To obviate all injustice all that is necessary is an amendment of s. 7 of the Guardianship of Infants Act, 1925, on the lines of s. 6 of the Married Women (Maintenance) Act, 1949, so that it will read "... the expression 'the court' shall include a court of summary jurisdiction having jurisdiction in the place in which the mother or father of the infant ordinarily resides."

There can be little sympathy with the view that the father should not be made to travel distances any more than the mother. It must not be forgotten that the vast majority of these cases are brought because the mother already has the physical custody of the children and is receiving nothing from her husband for their maintenance.

DEPUTY CHAIRMEN

By C. WHITE, *Clerk to the Justices, Stoke-on-Trent*

Whilst expressing considerable appreciation of Mr. J. N. Martin's thoughtful article, "The Election of Chairman," which was published in the issue of the *Justice of the Peace* dated January 6, and is likely to be both of immediate and of recurring interest, the present writer would emphasize one of his points, and would differ from him upon another.

In the event of an abortive election, practical experiments with different methods designed to secure a result will show that, in fact, there is no method of elimination which is not open to some sort of attack. The truth of the matter is that, if there is no result from the prescribed procedure, the justices must (by a majority) decide how to arrive at one, and that is the point to be stressed. There is nothing, of course, in the rules, which prescribes that such a decision must be arrived at in secret, and so long as the justices decide upon a certain course by a majority it is difficult to see that their proceedings could then be open to any effective attack.

What does seem to be indicated is that all reasonable efforts should be made to ascertain the real wish of the majority by means of the ballot-procedure *prescribed*. For instance, in Mr. Martin's last example (p. 6), it might be said that it would be wrong to eliminate Green as well as Brown and Grey, because there is no majority in favour of Black and White together, although there appears to be no great significance in a *composite* majority; note that Black, Brown, and Grey *together* form a majority. It might also be said (as Mr. Martin makes plain) that it would be wrong, in the first instance, and without putting the matter to a second general vote, to eliminate even Brown and Grey, because those who voted for Green might, for example, vastly prefer Grey to either White or Black, or to any other justice, and (after an abortive election) might wish to change their votes accordingly. Moreover, in the case of a result in voting of (*e.g.*) 4, 4, 3, 3, 3, 3, a second election might be said to be absolutely obligatory. Nor, it is conceived, should a second election be confined to the original choices, because each one of a majority of the justices might definitely prefer "Salmon" to any justice other than the one of his original choice, and each original choice might be *bete noir* to every justice, with the exception of those who actually voted for him.

Opinions will, however, differ as to what are reasonable efforts. It is suggested that, whilst justices may well be advised that they should go on voting in accordance (in all respects) with the prescribed procedure until a result is achieved, nevertheless, if they (by a majority) decide otherwise, the election will be good; provided that a *final* election by secret ballot is held in accordance with the rules, except so far as the choice may have been restricted by decision of the majority (made following an abortive election carried out in accordance with the rules). As Mr. Martin points out, the meeting may, in any case, ultimately be compelled to eliminate, and the example, 4, 4, 3, 3, 3, 3, which illustrates the difficulty in doing so fairly, might very well be perpetuated (at least as to numbers) after several elections.

Mr. Martin did not deal fully with the election of deputy chairmen, and it is here that one may differ from him as to the draftsmanship of r. 3 (6).

It would appear to be quite clear from r. 3 (3) that, if the justices decide to elect more than one deputy chairman, the votes are to be cast upon the same list at one and the same time. Thus, if four deputy chairmen are to be elected, each justice will vote for four names on the same list.

To secure (from the ballot) election by a majority, the following rules would seem to be applicable, namely:

(1) Vacancies will be filled seriatim;

(2) Candidates will be considered in the order of those obtaining the greater number of votes;

(3) A candidate will be elected if, (*a*) there is no remaining candidate with a greater number (or an equality) of votes, *and* (*b*) he has secured more than one half of the total *remaining* votes recorded, divided by the total remaining vacancies; and (subject to r. 3 (6) of the Statutory Rules) not otherwise.

Rule 3 (*b*) (*supra*) may be implemented by using the formula, $\frac{1}{2}\left(\frac{\text{Remaining Votes}}{\text{Remaining Vacancies}}\right)+1$, and in working this formula fractions may be ignored because of the final addition of a whole vote.

To illustrate, we may apply the above rules to the following possible recordings, where forty persons are voting to fill four vacancies, namely:

	"*A*"	"*B*"	"*C*"	"*D*"	"*E*"	"*F*"	"*G*"	*Total Votes Recorded*
(1)	30	23	23	23	21	20	20	160
(2)	24	24	23	23	22	22	22	160
(3)	21	21	21	21	21	20	18, etc.	160
(4)	39	20	20	20	19	18	17, etc.	160
(5)	40	20	20	20	19	18	17, etc.	160
(6)	36	20	17	17	17	7	6	120

Apply the formula, in conjunction with the other rules, as follows:

(1) (*a*) $\frac{1}{2}\left(\frac{160}{4}\right)+1=21$; "A" is elected.

(*b*) $\frac{1}{2}\left(\frac{160-30}{3}\right)+1=22$; "B," "C," and "D" are eligible for election; r. 3 (6) is applied, and the lot falls on (say) "C."

(*c*) $\frac{1}{2}\left(\frac{130-23}{2}\right)+1=27$; no other candidate is elected, and a further secret ballot for two vacancies must take place between all the justices except "A" and "C."

(2) (*a*) "A" and "B" are eligible for election, and the lot falls on (say) "A."

(*b*) $\frac{1}{2}\left(\frac{160-24}{3}\right)+1=23$; "B" also is elected.

(*c*) $\frac{1}{2}\left(\frac{136-24}{2}\right)+1=29$; no other candidate is elected; ballot again for two as above.

(3) (*a*) "A" to "E" all eligible for election; suppose the lot falls on "E."

(*b*) $\frac{1}{2}\left(\frac{160-21}{3}\right)+1=24$; no other candidate is elected; ballot again for three as above.

(4) (*a*) "A" is elected.

(*b*) $\frac{1}{2}\left(\frac{160-39}{3}\right)+1=21$; no other candidate is elected; ballot again for three as above.

(5) (*a*) "A" is elected.

(*b*) $\frac{1}{2}\left(\frac{160-40}{3}\right)+1=21$; as in the case of a straight vote for a chairman, where (*e.g.*) ten out of twenty voters had voted for "X," and ten for "Y," r. 3 (6) of the prescribing rules must be applied as between "B," "C," and "D"; suppose the lot falls on "B."

(*c*) $\frac{1}{2}(\frac{120-20}{2})+1=26$; no other election; ballot again for two as above.

(6) (*a*) $\frac{1}{2}(\frac{120}{4})+1=16$; "A" is elected.

(*b*) $\frac{1}{2}(\frac{120-36}{3})+1=15$; "B" also is elected.

(*c*) $\frac{1}{2}(\frac{84-20}{2})+1=17$; "C," "D," and "E" are eligible; the lot falls on "E," and he also is elected.

(*d*) $\frac{1}{2}(64-17)+1=24$; no other candidate is elected; ballot again for remaining vacancy.

It will be noticed that example (6) disposes of Mr. Martin's difficulties upon the question of justices' not using all their votes. As in the case of a chairman, it is the total of votes recorded, and not the number of persons present, which counts (r. 3 (3)), and it would seem that an abstention as to a fourth (or even a third or a second) vacancy cannot be denied. Rule 3 (3) certainly means that a justice should express a wish if he has one, but it does not appear to be necessary to interpret it in such a way as to mean that a ballot paper with less than four votes marked would be invalid. The effect of a recording of less than the possible number of votes is simply that a candidate may secure election on less than the minimum number of votes (twenty-one in our examples (1) to (4), twenty in the exceptional case of example (5)) which would otherwise be an essential.

It will also be noted that, except in the case of a tie at one less than the minimum number of votes (example (5)), no candidate can, if the *total possible* votes are recorded, ever secure election on less than half of the total votes originally recorded divided by the total number of original vacancies, plus one; but it is very important to observe that because a person secures this proportion it does not follow that he automatically secures election; example (2), where each of seven candidates has more than the minimum number of votes necessary to elect *one* deputy chairman illustrates this fallacy. Unless a candidate elected secures a "possible," the number of votes necessary to elect the next candidate (that is, to fill another vacancy) always increases. In example (7), of course, where only 120 votes are recorded, the first candidate elected secures (so to speak) more than a "possible," with the result that the minimum number of votes necessary to secure the next election *decreases*.

Finally, it will now be apparent that r. 3 (3) is carefully drawn, so as exactly to meet the position which arises when there is a competition between two or more candidates for a vacancy *as deputy chairman*, occasioned by an equal vote; this is the point which Mr. Martin, in confining his attentions to the election of a chairman, has not dealt with.

PROBATION COMMITTEES AND LAND

A question has arisen in some places which could have been avoided if the Justices of the Peace Act, 1949, had been worded differently. It is eminently a question of "lawyers' law": *cp.* 114 J.P.N. 563/564—not, that is to say, anything to do with attempts at expressing the needs of a modern community in Acts of Parliament, but simply a question whether a new statutory body has been as adequately equipped with old common law powers as the Government intended. The legal point is one which it is hardly to be supposed that the Lord Chancellor, who had charge of the Bill in the House of Lords, or indeed the learned draftsman, can have overlooked. It did not even spring as the Minister of Local Government and Planning said in Parliament recently that the "four year gap" in the Town and Country Planning Act, 1947, had sprung, from over-complacency in accepting an amendment while the Bill was in Parliament. The point arises on a clause which occurred in the Bill as introduced, and parliamentary counsel may have thought it was too clear to need to be made explicit. Yet it may, as it seems to us, easily give rise to litigation, if nothing worse than a vendor and purchaser summons—which could easily have been avoided by following many statutory precedents. Section 37 (1) of the Act says that: "A probation committee shall be a body corporate, and shall have power to hold land without licence in mortmain." This provision was made because doubts and difficulties had arisen in practice, where probation committees had to take offices for themselves or for probation officers, and nobody felt sure who should execute the conveyance and be the freeholder or leaseholder. Similar difficulties had, it may be remarked in passing, been encountered by lunacy committees under the Lunacy Act, 1890; by assessment committees under the Rating and Valuation Act, 1925; and by justices in quarter sessions—none of whom were corporate bodies. For quarter sessions, the difficulty in holding property was got over by s. 64 of the Local Government Act, 1888, after a very interesting interim provision in the County Property Act, 1858; for the committees just mentioned it was not removed by statute, though s. 238 of the Act of 1890 prevented the point we are here considering from arising in regard to asylums. Section 37 of the Justices of the Peace Act, 1949, was thus in one sense breaking new ground, and, in doing so, Parliament omitted for some reason to declare how the probation committee was to perform its corporate acts, of which the acquiring or disposing of property is the most important. There is a similar omission from para. 7 of sch. 4 to the same Act, where magistrates' courts committees are created bodies corporate, without any reference either to a common seal or to their being able to hold land without licence in mortmain. The question, therefore, arises, how the corporation is to carry out its necessary duties, particularly (in case of the probation committee) how it will acquire land and, perhaps more important, how it will dispose of land which it no longer wishes to occupy for its statutory purposes.

The normal method for a corporate body to acquire or dispose of land, or an interest in land, is by a deed executed under the common seal, and indeed, apart from express provision to the contrary, this is the only way a corporation can do formal acts. The only express provision to the contrary we know is in s. 48 of the Local Government Act, 1933, mentioned further below.

Where a charter creating a corporation at common law omits to confer the right to have a common seal, the charter is defective, and *Grant on Corporations*, edition of 1850, seems to imply that the defect might defeat the incorporation. It seems, however, from later passages in *Grant*, that the defect is not always fatal. That is, if the charter or letters patent did not in so many words declare the body to be a body corporate, failure to mention the right to use a common seal might be, though decided cases show it would not always be, a ground for holding that the body was not incorporated: *R.* v. *Lord Danvers* (1553) 1 Dyer, 81a (though it is fair to say that a conflict between papal and royal prerogatives had more to do with this decision than any philosophic question—note the date). This is mixed up with the old learning about implied incorporation of bodies called into existence by the Crown, about which there have been many cases. But where there is express incorporation by the Crown, it may be presumed

that the right to have a seal was intended to be given, since otherwise the incorporation would be defeated. This really, though *Grant* supports it by references to *Vyner* and *Coke*, is nothing but an application of the ordinary rule of construction, that you must discover the effect of a document by reading the document as a whole. So again, *Adler's Law of Corporations*, p. 11, points out that: "The use of a common seal, the making of byelaws, the practice of suing and being sued in one name—in fact, all the chief incidents of a corporation—were in everyday exercise long before the corporation itself was recognized." (Before, that is to say, the philosophic theory of a corporate and non-natural personality had been transferred from the schoolmen to the lawyers.) This generalization Adler supports by reference to a number of boroughs which in fact used a common seal long before they were incorporated. The same generalization appears in Merewether & Stephens' *History of the Borough*, p. 443, which cites from Sir William Jones's reports, p. 268, the case of an *iter* at Windsor, where a swayn mote roll was sealed with one seal. The Attorney-General is recorded to have said: "If one of the officers of the forests put but one seal by the assent of the whole, it is as good as if everyone put his separate seal." The case, of course, dates from the time when men used seals instead of signing their name, because they were unable to write, but it indicates corporate action by a corporate or, as we should now say, quasi-corporate body: *cp. Re Stratford Bridge Improvement Act, ex parte Annesley* (1836) 6 L.J. Ex. Eq. 81, upon a body held not be a corporation though it had perpetual succession. The best known case upon this topic is that of *Sutton's Hospital* (1612) 10 Co. Rep. 30 (b). *Coke* there says that: "Corporation is sufficient without the words to implead and to be impleaded, etc., and therefore divers clauses subsequent in the charters are not of necessity but only declaratory, and might well have been left out" (*e.g.*) "to have a seal, etc., that is also declaratory for when they are incorporated they may make or use what seal they will." The fact that corporations may be held to exist, even though there is no specific mention of a common seal, is well recognized by the decisions in later cases, where the judges based themselves on the case of *Sutton's Hospital*. Thus in *Bower* v. *Griffith* (1868) 16 W.R. 540 town and harbour commissioners were created by 43 Geo. 3, c. 60, and land was vested in them and their successors, but they were not given a corporate name or common seal. It was held that they were a corporation by implication. In *Conservators of River Tone* v. *Ash* (1829) 10 B. & C. 349, Littledale, J., said at p. 384—"to create a corporation by charter or Act of Parliament it is not necessary that any particular form of words be used. It is sufficient if the intent to incorporate be evident," and on p. 387 he says: "The case of *Sutton's Hospital* shows that it is not necessary that a thing incident to a corporation should be conferred on it by express words." In these cases of 1829 and 1868, it seems that Parliament had made an error by oversight or inadvertence: it is to be remembered that the office of the Parliamentary Counsel did not then exist. But this is not the sort of error which would occur in Old Palace Yard today; although in *Ashbury Railway Carriage and Iron Company* v. *Riche* (1875) L.R. 7 H.L. 653 Archibald, J., whose opinion ultimately prevailed in the House of Lords, had said (L.R. 9 Ex. at p. 292): "I admit that at common law when a corporation is duly created all other incidents are tacitly annexed such as ability to purchase and alien, to sue and to be sued and to use what seal they will," the modern lawyer must be put upon inquiry, when he finds that a corporate body is expressly created but is given no seal. Did Parliament intend that it should use a common seal or not? Whilst at common law a corporation may consist of thousands of persons, who can change from day to day, so that, unless their express incorporation implied a right to have and use a common seal, they could not act at all in their corporate capacity: *Ludlow Corporation* v. *Charlton* (1840) 10 L.J. Ex. 75, the same reasoning cannot be applied to modern statutory corporations consisting of relatively few persons. Where Parliament creates a corporation it has, with the one express exception already mentioned, been the invariable practice to confer the right of having a common seal, for a century at least, until the Justices of the Peace Act, 1949, made the two new exceptions we are now considering: *see* for example, the Local Government Act, 1933, ss. 2 (2) (county councils), 31 (2) (urban district councils), and 32 (2) (rural district councils), and contrast s. 48 (2), following the Local Government Act, 1894, where a parish council is declared to be a corporate body but without being given the right to use a seal—an anomaly which leads to subs. (3), where it is enacted that a parish council may act under the personal seals of two members. Municipal corporations are not dealt with for this purpose in the Act of 1933, because they are common law corporations, but it is worth noting that metropolitan borough councils are dealt with in s. 17 (2) of the London Government Act, 1939, with some particularity, provision being made (following ss. 1, 2, and 27 of the London Government Act, 1899) for the names of the boroughs, for their power to hold land, and for their common seals. Compare again r. 5 in sch. 1 to the Local Government (Boundary Commission) Act, 1945, and r. 1 in Part IV of sch. 3 to the National Health Service Act, 1946, where regional hospital boards, boards of governors of teaching hospitals, and hospital management committees, are made corporations and given common seals. So by sch. 1 to the Transport Act, 1947, are the British Transport Commission and its derivative executives: the same is true of all the "nationalization" bodies.

If upon this footing—*i.e.*, absence of a corresponding provision from the Justices of the Peace Act, 1949—the High Court held that a probation committee has no common seal, what could be done in those cases where a seal must be used? The matter is not unimportant. True, where a probation committee is acquiring property, it might find it enough to pay the price and go into possession—though, even here, a vendor or (still more) a lessor might insist upon proper documents embodying, say, covenants affecting neighbouring property. But when the probation committee comes in course of years to sell property which it now acquires—as will happen, for it is not to be supposed that it will never, for example, change its offices—the then purchaser from the committee will be entitled to insist on a conveyance in due form: *Re Cary Elwes* (1906) 70 J.P. 345. Since in the Act of 1949 Parliament did not follow the above-mentioned provision which it had made for parish councils in the Local Government Act, 1933, *i.e.*, did not authorize the probation committee to act by the seals of two members, and did not expressly deal with the matter in any other way, the only thing (if it were held that the right to use a common seal had not been impliedly given) would be for the committee, acting by a majority in the ordinary way as the governing body of the corporation, to pass a resolution authorizing its chairman or secretary to execute the document, whatever it is, under his personal seal. This would not, we should perhaps point out, mean that the property would be vested in him, as in the clerk of the peace under the County Property Act, 1858, *supra*. The property (if this course could be taken at all) could still be vested in the corporation, by virtue of s. 37 of the Act of 1949; the chairman's or secretary's seal would be mere mechanics, for the purpose of so vesting it. Would this, however, be adequate? We doubt it. The other party to the transaction would be entitled to see the resolution, and might raise the technical point, that a resolution of a corporation authorizing an individual to perform some formal act on its behalf ought itself

to be under the corporate seal. If this objection were raised, it seems that the answer could only be that s. 37 of the Act of 1949 had given no right to have a common seal, so that the method, of executing a document under the personal seal of a person duly authorized by unsealed resolution, was the only method possible, and so must be admitted, because even an Act of Parliament is to be construed *ut magis valeat quam pereat*. This line of argument is possible: *cp. Yarmouth Corporation and Cowper's Case* (1630) Godb. 439. It will, however, be seen that, equally with the argument that a right to use a seal had been impliedly given, it would throw the practitioner back on an assumption. Is it the probable, or the more convenient assumption, that these corporations created by the Act of 1949 are authorized to perform corporate acts in an irregular way, or that they are authorized, impliedly though not explicitly, to perform those acts in the regular way? Since one assumption or the other must be made, we think that is to be preferred which conforms to the old authorities—which, also, credits the learned persons who drew the Bill with knowledge of what they were doing, rather than with a rather shocking piece of carelessness. This is not to say that we do not regret their having done things this way: had the draftsman seen fit to follow the precedent of parish councils, doubt and the risk of litigation would have been avoided.

We come down, therefore, on the whole, in favour of the view that a probation committee wishing to execute a deed should do so under seal, which can be any seal it pleases, but should be affixed with the intent of its being (at least *ad hoc*) their corporate seal, and should be witnessed in terms which make this intention plain.

THE PUBLIC UTILITIES STREET WORKS ACT, 1950—II

By J. R. LLOYD, *M.A.* (*Cantab.*)

(*Continued from p. 89, ante*)

In this article it is proposed to consider the Act from the point of view of the public utility undertakers, and to discuss their rights and obligations in respect of the execution of undertakers' works regulated by the Act.

A.—SUBMISSION OF PLAN AND SECTION OF WORKS

Sections 3, 4 and 5 of the Act prescribed the procedure to be followed under the street works code by undertakers in submitting and settling a plan and section of works proposed to be executed by them in a street or controlled land. The effect of these sections is that undertakers proposing to place, alter, renew, change the position of, or remove any apparatus in a street or controlled land, other than a service pipe, service line, or overhead telegraphic line not in the carriageway of a trunk or classified road, must first submit a plan and section of the proposed works to each of the authorities or managers concerned. In the case of emergency works the plan and section must be submitted as soon as is reasonably practicable after execution of the works. It is an offence punishable by fine to carry out relevant works without submission of a plan and section, and in addition the undertakers can be required to submit to arbitration as to whether the works carried out should be altered or the apparatus removed.

If an authority or managers concerned do not give notice to the undertakers approving, modifying or disapproving the plan and section within twenty-nine days, or in the case of a service pipe, service line, or overhead telegraphic line within eight days, the plan and section are deemed to have been settled by agreement. If the undertakers do not agree to any modifications imposed or if the plan and section are disapproved by an authority or managers the undertakers may refer the matter to arbitration and the arbitrator shall settle the plan and section.

Where the works are proposed to be executed in a maintainable or a prospectively maintainable highway the undertakers' plan and section may be disapproved or modified by the street authority on the grounds that the whole or part of the works should be executed in controlled land abutting on the street. If the undertakers do not agree the matter is referred to arbitration and the arbitrator may also settle the relevant plan and section. If the undertakers agree to execute the works in controlled land or the arbitrator so determines, those works are excluded from the undertakers' power to execute works in the street. The street authority must exercise their powers under sch. 1 so that the undertakers shall have the right to execute the works in question in the controlled land within twenty-two days of the date on which the relevant plan and section are settled, and if they fail to do so the undertakers' power to execute those works in the street will revive, and they may so execute them in accordance with a plan and section settled in the usual way.

B.—NOTICE OF COMMENCEMENT OF WORKS

Section 6 of the Act provides that undertakers proposing to begin works in any street which involve either breaking up or opening the street or any public sewer therein or tunnelling or boring under the street must give to each of the authorities or managers concerned, and, if the street is a prospectively maintainable highway, to the street managers thereof, a notice stating the undertakers' intention to execute the works and the date on which and the place at which they intend to begin the execution thereof. The works must not be begun, except with the consent of all the authorities to whom notice is required to be given, until seven days after the last of the notices was given, or, in the case of works relating only to a service pipe, a service line, or an overhead telegraphic line, three days after such notice was given. Unless the works are substantially begun within two months of the service of the notice, or such extended period as shall be agreed, fresh notices must be given. There is also a provision in sch. 1 requiring notice to be given to the occupiers of controlled land where works are to be executed therein. Emergency works may be begun without giving notices or before the prescribed time after notices have been given has expired, but the undertakers concerned must as soon as is reasonably practicable give notice to each of the authorities concerned stating their reason for so beginning the works.

Section 26 contains like provisions requiring notice to be given by undertakers proposing to execute works (other than works relating only to a service pipe, service line, or overhead telegraphic line) which are likely to affect apparatus in the street belonging to other undertakers. In this case the notice is given to the owners of the apparatus likely to be affected by the works, and the works cannot be begun until the expiration of three days from the date on which the notice was given.

Failure to give the notices required by either of the above sections is punishable on summary conviction by a fine not exceeding fifty pounds.

With certain exceptions s. 17 of the Act relieves undertakers from any obligation previously imposed to obtain the consent

of a highway, bridge, or transport authority to carry out works which are regulated by the street works code.

C.—EXECUTION OF THE WORKS

Undertakers are obliged by s. 7 to execute the works in accordance with the plan and section previously settled unless the authorities concerned concur in any modification thereof. Section 8 sets out the requirements as to safety and prevention of obstruction that have to be observed by the undertakers during the execution of the works. These include fencing, lighting, the erection and lighting of traffic signs, and the obligation to ensure that no greater area of the road surface is broken up at any one time than is reasonably necessary. During execution of the works facilities for supervision must be afforded to transport authorities affected and to undertakers owning other apparatus in the street likely to be affected. The undertakers must also comply, in the execution of the works, with the reasonable requirements of undertakers owning other apparatus likely to be affected, for the protection of such apparatus.

After completion of the works or part thereof the undertakers must begin reinstatement and making good of the street as soon as is reasonably practicable, and must carry out the reinstatement in accordance with the reasonable requirements of the authority or managers concerned, and complete them to their reasonable satisfaction. Schedule 3 to the Act provides for the authority or managers concerned to elect to carry out the reinstatement at upper levels themselves at the cost of the undertakers. The election is made by the authority or managers concerned serving upon the undertakers a notice to that effect, and the election may be made in respect of all code-regulated works in that street, or a particular class thereof, or a separate notice of election may be given in each case. Where the undertakers carry out the reinstatement they must grant facilities to each of the authorities or managers concerned for supervising the reinstatement and must pay them the cost reasonably incurred by them of supervision. If the area reinstated by the undertakers either subsides or deteriorates within six months then the undertakers are liable to the street authority or managers for the cost of the works needed for remedying the subsidence or deterioration.

Section 10 contains protective provisions for the benefit of transport authorities. If the undertakers' works involve breaking up or boring under a street which is carried by or goes under a bridge vested in a transport authority, or which crosses or is crossed by any other property held or used for the purposes of a transport undertaking, that authority may by notice given to the undertakers elect themselves to break up or bore under the street and/or do the works of reinstatement, subject in the latter case to the superior right of the street authority or managers to elect to do the reinstatement in accordance with sch. 3.

Section 12 provides that if it appears to a sewer authority concerned that undertakers' works render any other works necessary for making proper provision for drainage, for which a public sewer of the authority is then used, and they serve notice to that effect upon the undertakers, and the undertakers agree or it is settled by arbitration, then the undertakers must execute those works. Where undertakers' works involve the breaking up or opening of a public sewer the sewer authority may elect to execute the opening of the sewer themselves and the reinstatement thereafter and any other works rendered necessary as mentioned above.

D.—APPARATUS AFFECTED BY ROAD WORKS

Mention was made in the first article of the provisions of sch. 4 to the Act, supplementing the code in Part II of the Act and providing for notice to be given to the undertakers concerned of any proposed road, bridge, or street works affecting the undertakers' apparatus. If the undertakers desire to claim that by reason of the road or other works any works by them are rendered necessary for the purposes of the supply or service for which their apparatus is used they must as early as practicable, and in any case not later than twenty-nine days from the date of the giving to them of the authority's notice, give notice to the authority specifying the works claimed to be necessary. The authority must then give notice to the undertakers without avoidable delay, either accepting the undertakers' works as necessary or objecting to them, and in the latter case a specification must be settled by agreement or arbitration. Section 22 provides for the necessary works as agreed or settled to be carried out by the undertakers, and for the reasonable cost incurred to be paid by the authority concerned.

In addition to the right of the undertakers to claim that works by them are rendered necessary as above the authority proposing to execute the road or other works may themselves require the undertakers to execute necessary works to their apparatus, the authority paying the reasonable cost incurred. This is subject to the proviso that the undertakers cannot be required to remove any of their apparatus permanently from the street or controlled land, or to remove it therefrom temporarily except where such a temporary removal can be arranged consistently with the maintenance of the supply or service for which the apparatus is used, without undue interruption or restriction, and there is adjacent land in which the undertakers have power to place the apparatus.

Section 23 places limitations on the undertakers' right to payment for works rendered necessary as above. The undertakers will not be entitled to payment where the authority's works resulted from a subsidence of the street, provided that the subsidence was not attributable to matters for which the authority was to blame nor where the authority notified the undertakers of their intention to carry out the works within eight days from the date on which the intention to place the apparatus was signified to the authority. In the latter case a plan and section of the authority's proposed works must be furnished to the undertakers within twenty-nine days from the giving of the notice, and the authority's works must be substantially begun within two years from the date on which the relevant notice was given by them, and must be executed without material departure from the plan and section submitted. Undertakers cannot claim to be repaid the additional cost of any necessary works executed by them by way of replacing the existing apparatus by apparatus of better type, of greater dimensions, or of greater capacity.

(To be concluded)

DISHONESTY

With all my worldly goods I her endowed
Within the time the Bankrupts' Act allowed,
And now she makes a quite dishonest claim
And says they're hers because they're in her name.

J.P.C.

OUTRAGEOUS SUGGESTION

Why pronounce COKE
To rhyme with book ?
I'm sure the old bloke
Was often called COKE.

J.P.C.

WEEKLY NOTES OF CASES

CHANCERY DIVISION

(Before Danckwerts, J.)

Re WOKINGHAM FIRE BRIGADE TRUSTS. MARTIN AND OTHERS *v.* HAWKINS AND OTHERS

February 1, 1951.

Fire Brigade—Voluntary fire brigade—Sale of equipment on National Fire Service taking over—Whether funds held on charitable trusts.

ADJOURNED SUMMONS.

As the result of a public meeting held on November 9, 1876, the Wokingham Fire Brigade was formed as a voluntary fire brigade to serve the local district, and did so until the outbreak of war in September, 1939. The brigade was maintained by private donations or subscriptions, fees from attending fires, and the proceeds of an annual ball. By an agreement, dated December 3, 1940, the Wokingham Rural District Council undertook to pay £250 a year to the brigade and the brigade undertook to provide fire services in the district and in certain adjoining parishes. This arrangement continued until the National Fire Service took over the duties of the brigade in October, 1942. The equipment of the brigade was then sold, and the brigade ceased to exist as an operative body. The question arose regarding the manner in which the funds of the brigade were to be disposed—whether they were the private property of the members, or whether those who had subscribed donations could claim by reason of a resulting trust, or whether the funds were held on charitable trusts or passed as *bona vacantia* to the Crown.

Held, the brigade was a non-profit making body formed to supply a public need; it was not formed for the benefit of the members, but for the benefit of the public, and its provision was a public charitable purpose; and, therefore, the funds were held on charitable trusts and the matter would be referred to chambers for the settlement of a scheme.

Counsel: *John Monckton, Elverston, J. L. Arnold, Denys B. Buckley,* and *Newsom.*

Solicitors: *Soames, Edwards & Jones,* for *Cooke, Cooper & Barry,* Wokingham; *Treasury Solicitor.*

(Reported by R. D. H. Osborne, Esq., Barrister-at-Law.)

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Humphreys and Devlin, JJ.)

R. *v.* PEARCE.

January 31, 1951.

Criminal Law—Gross indecency—Attempt—Charge against one person only—Competency—Criminal Law Amendment Act, 1885 (48 & 49 *Vict., c.* 69), *s.* 11.

APPEAL against conviction.

The appellant was convicted at the Central Criminal Court before the Recorder of London of attempting to commit an act of gross indecency with another male person, one F. F was not charged, and he gave evidence for the prosecution that he did not consent to the act. The recorder gave a certificate, under s. 3 (*b*) of the Criminal Appeal Act, 1907, on the question whether the decision in *R.* v. *Hornby* (110 J.P. 391) invalidated a charge of gross indecency against one only of two participants when the other gave evidence for the prosecution that he did not consent to the act.

Held, that (i) *R.* v. *Hornby* (*supra*) was to be differentiated from the present case, because in the present case the conviction was of an attempt only; (ii) there was nothing to support the proposition that where two persons were jointly indicted for committing an act of gross indecency, one could not be convicted and the other acquitted. What was decided in *R.* v. *Hornby* (*supra*) was that, if both parties were to be convicted, there must be a proper direction telling the jury that each person must be proved to have committed the offence with the other person. The appeal must, therefore, be dismissed.

Counsel: *E. L. Bradley* for the appellant; *Elam* for the Crown.

Solicitors: *Registrar, Court of Criminal Appeal*; *Director of Public Prosecutions.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

R. *v.* ALBURY

January 29, 1951

Criminal Law—Corrective training—Sentence consecutive to existing sentence—Criminal Justice Act, 1948 (11 & 12 *Geo.* 6, *c.* 58), *s.* 21 (2).

REFERENCE by Home Secretary under s. 19 (*a*) of the Criminal Appeal Act, 1907.

In November, 1949, the appellant was sentenced to two years' corrective training. While serving that sentence, he disclosed other offences which he had committed, and in respect of those he appeared before another court and was sentenced to a further term of two years' corrective training to commence on the expiration of the sentence already being served.

Held, (i) that, corrective training being a discretionary sentence, there was no objection in law to imposing a sentence of corrective training to commence on the expiration of an existing sentence of corrective training, the same principle applying as applied to sentences of imprisonment for either misdemeanour or felony; (ii) that, as the court had laid down that, unless in exceptional circumstances, a sentence of corrective training should be for not less than three years, the court would produce the same result in effect by varying the second sentence to one of two years and eight months' corrective training, to run concurrently with the first sentence.

Counsel: *Michael Havers* for the appellant; *Buzzard* for the Crown.

Solicitors: *Registrar, Court of Criminal Appeal*; *Director of Public Prosecutions.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

KING'S BENCH DIVISION

(Before Lord Goddard, C.J., Humphreys and Devlin, JJ.)

LLOYD *v.* E. LEE, LTD.

January 24, 1951

Road Traffic—Carriage of goods—Condition of licence—Carriage for hire or reward prohibited—Use for that purpose by person other than holder of licence—Failure to cause identity certificate to be affixed—Use by another person at material time—Liability of holder of licence—Road and Rail Traffic Act, 1933 (23 & 24 *Geo.* 5, *c.* 53), *s.* 8 (3), *s.* 9 (1)—*Goods Vehicles (Licences and Prohibitions) Regulations,* 1936 (*S. R. & O.,* 1936, *No.* 269), *reg.* 12 (2).

CASE STATED by Southport justices.

At a court of summary jurisdiction at Southport two informations were preferred by the appellant, William Herbert Lloyd, against the respondent company, E. Lee, Ltd. The first charged the company with unlawfully failing to comply with a condition of a licence held by it under Part I of the Road and Rail Traffic Act, 1933, namely, that the authorized vehicle should not be used for the carriage of goods for hire or reward, contrary to s. 9 of the Act. The second charged the company with, during the time when the vehicle was used under the licence, failing to cause the appropriate identity certificate to be affixed to the vehicle, contrary to reg. 12 (2) of the Goods Vehicles (Licences and Prohibitions) Regulations, 1936. The vehicle, which was owned by the respondent company, was, at the material time as regards the first information, being used by Enterprise Transport, Ltd., a company associated in business with the respondent company, for the carriage of goods for hire or reward. The identity certificate appropriate to the vehicle was not affixed and carried on it in the required manner at the time of the use which gave rise to the second information, the vehicle on that occasion also being used by Enterprise Transport, Ltd.

It was contended for the respondent at the close of the case for the prosecution that, as the vehicle at the material time was being driven by a servant of Enterprise Transport, Ltd., and as no hire or reward earned by that company had been paid to the respondent company, there had been no user by the respondent company, and that, therefore, the respondent company was not guilty of either of the offences charged. The justices accepted this contention, and dismissed both informations. The prosecutor appealed.

Held, that it was wrong to read into the words of either s. 4 (2) or reg. 2 (2) either of the limitations contended for by the respondent company, and the case must be remitted to the justices with a direction to convict on both informations.

Counsel: *Baucher* for the appellant; *Samuel-Gibbon* for the respondent company.

Solicitors: *Sharpe, Pritchard & Co.*, for *R. Edgar Perrins*, town clerk, Southport; *Vizard, Oldham, Crowder & Cash*, for *Henry Backhouse & Son*, Blackburn.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

WINKLE *v.* WILTSHIRE

February 2, 1951.

Stamps—National insurance stamps—Purchase in good faith of forged stamps—Lawful excuse—Post Office Act, 1908 (8 *Edw.* 7, *c.* 48), *s.* 65 (1) (*b*), (*as applied by National Insurance and Industrial Injuries (Stamps) Regulations,* 1948 (*S.I.*, 1948, *No.* 1443)).

CASE STATED by a metropolitan magistrate.

At a metropolitan magistrate's court an information was preferred by the appellant, Edward Harrington Winkle, on behalf of the Postmaster-General, charging the respondent, William Herbert Wiltshire,

with having in his possession without lawful excuse seven fictitious 9*s.* 1*d.* national insurance stamps, contrary to s. 65 (1) (*b*) of the Post Office Act, 1908, as applied by the National Insurance and Industrial Injuries (Stamp) Regulations, 1948. The following facts were proved or admitted. The respondent was the landlord of a public house and had in his employment one adult male employee. The respondent stamped the national insurance cards of the employee for the years ending March 5, 1950, and March 4, 1951, with 9*s.* 1*d.* national insurance stamps of which twenty-two were fictitious, being forged. The respondent had not bought the twenty-two stamps from a post office, but early in February, 1950, had bought them in his public house from a man known to him as "Tom," whom the respondent believed to be a sub-contractor at a power station. "Tom" was not in the service of the Post Office or the Ministry of National Insurance, and had not been appointed to sell, distribute or been licensed to deal in insurance stamps. When the respondent bought the stamps he did not know that they were fictitious and honestly believed them to be genuine, and did not know that "Tom" was not authorized to deal in insurance stamps. The magistrate was satisfied that the respondent had shown a lawful excuse for possessing the fictitious stamps, and dismissed the information. The prosecutor appealed.

Held, that the fact that the respondent did not know that the stamps were forged could be a defence only where they had been bought from a post office or licensed dealer; to establish a lawful excuse, the respondent must show not only that he did not know the stamps to be forged, but further that he acquired them lawfully; no defence had been made out in the present case; and the case must be remitted to the magistrate with a direction to convict.

Solicitors: *J. P. Davies, Solicitor, Ministry of National Insurance, Daybells*, Stratford.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

WILCOX *v.* JEFFERY

January 26, 1951

Alien—Breach of condition attached to leave to land—Aiding and abetting—Musician—No employment to be taken in United Kingdom—Performance at concert—Defendant present as spectator—Description of concert in magazine owned by defendant—Aliens Order, 1920 (*S.R. & O.*, 1920, *No.* 448) (*as amended*), *arts.* 1 (4), 18 (2).

CASE STATED by a metropolitan magistrate.

An information was preferred by the respondent, Clarence Jeffery, charging the appellant with unlawfully aiding and abetting one Coleman Hawkins in contravening art. 1 (4) of the Aliens Order, 1920, by failing to comply with a condition attached to a grant of leave to land, namely, that Hawkins should take no employment, paid or unpaid, while in the United Kingdom, contrary to art. 18 (2) of the Order. Hawkins, who was a musician and a citizen of the United States, came to England at the invitation of persons named Curtis and Hughes, who were connected with a jazz club at Willesden. They had applied for permission for Hawkins to land, but it had been refused, and Hawkins was allowed by the immigration officer to land only on condition that he did not enter employment, paid or unpaid, while in the United Kingdom. The appellant, who was the proprietor of a musical newspaper and a jazz club, met Hawkins and four French musicians who were with him at the airport. Subsequently Curtis and Hughes arranged a concert, at which Hawkins performed. The appellant attended the concert as a spectator, having paid for his ticket, and a laudatory description of the concert subsequently appeared in the appellant's magazine. The magistrate convicted the appellant and fined him £25. The appellant appealed.

Held, on the authority of *R.* v. *Coney* (1882) (46 J.P. 404), that, as the appellant's presence at the concert was not accidental, it was open to the magistrate to find that his presence was an encouragement to Hawkins to commit the offence, and that, accordingly, he had aided and abetted Hawkins in the commission thereof. The appeal must, therefore, be dismissed.

Counsel: *Rountree* for the appellant; *J. M. G. Griffith-Jones* for the respondent.

Solicitors: *Elliott & Macvie*; *Treasury Solicitor.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

PATEL *v.* WILLIS

January 26, 1951

Control of Goods—Goods manufactured for export—Supply in home market—"Supply"—Agency—Utility Mark and Apparel and Textiles Order, 1947 (*S.I.* 1947, *No.* 2642), *art.* 18 (4)—*Knitted Goods* (*Manufacture and Supply*) *Order*, 1948 (*S.I.* 1948, *No.* 316), *arts.* 3 (2), 3A (1), 13 (3) (*as amended*).

CASE STATED by the appeal committee of London Sessions.

An information was preferred at a metropolitan magistrate's court by the prosecutor on behalf of the Board of Trade, charging the defendant, Patel, with unlawfully supplying nylon stockings in contravention of art. 3A (1) of the Knitted Goods (Manufacture and Supply) Order, 1948 (as amended). The magistrate convicted the defendant, who appealed to quarter sessions, where the conviction was affirmed. The defendant appealed.

The Knitted Goods (Manufacture and Supply) Order, 1948, as amended by later orders, provides, by art. 3 (2), that a manufacturer shall not supply any goods of a certain class (including nylon stockings) otherwise than by exportation or to a person who surrenders a declaration in writing signed and dated by him that he will not supply the goods except on the same terms. Article 3A (1) provides that a person to whom goods have been supplied against the surrender by him of any such declaration shall not supply any such goods except in accordance with the declaration. In 1948 one Sastry registered himself as a firm under the title of the Central Oriental Agency. On May 18, 1949, the defendant called on Taylor, Woods, Ltd., hosiery manufacturers, and stated that he represented the Central Oriental Agency. He arranged with Mr. Hughes, the general manager of Taylor, Woods, Ltd., that they should sell to the agency for export by them to Pakistan certain quantities of nylon stockings. This was followed by a written order signed by Sastry. On June 17, 1949, the defendant called to take delivery of some of the nylons. He was asked by Mr. Hughes for a declaration in the terms required by the Board of Trade, and replied that such a declaration was in the post. Mr. Hughes said that he could not hand over the goods unless they were signed for by the firm. Thereupon the defendant agreed to sign the declaration, which corresponded in its terms to that required by the Order, and he wrote on the form offered to him the words "V. Shastri." The declaration was not then dated, but Mr. Hughes subsequently endorsed on it a memorandum of the date. After the defendant had written on the declaration, he was handed the nylons, and took them and placed them in a waiting taxicab, where there was another Indian who drove to King's Cross, whence he sent part of the goods by train to Leeds and part by train to York. At both places they were collected by a third Indian.

By art. 18 (4) of the Utility Mark and Apparel and Textiles Order, 1947, which, by s. 13 (3) of the Knitted Goods (Manufacture and Supply) Order, 1948, is applied to the latter Order: "'supply' means supply in pursuance of a contract of sale, work and labour with or without the provision of materials, sale or return, hire, hire-purchase, barter or a contract of any other description, and supply as a gift."

Held, that to establish the offence with which the defendant was charged, the prosecution had to prove two acts of supplying (*a*) by Taylor, Woods, Ltd., to the defendant, and (*b*) by the defendant to some third person. With regard to (*a*) there was clearly a contract of sale between Taylor, Woods, Ltd., and Sastry, and, the goods having been delivered to the defendant, who was an agent of Sastry within the class of agent who had authority to deal with them on behalf of his principal, there had been a "supply" to the defendant within the meaning of the Order. With regard to (*b*), it having been proved that an agent in the defendant's position handed to a third party goods which were dispatched to their destinations by train, the proper inference, in the absence of any other satisfactory explanation, was that the goods were being supplied under one or other of the forms of contract referred to in the definition. As nothing was placed before the committee to show whether that contract was for export or not, and as no declaration was produced, the committee were justified in holding that they had been supplied by the defendant in breach of the Order. The appeal must, therefore, be dismissed.

Counsel: *Platts-Mills* for the appellant; *G. Pollock* for the respondent.

Solicitors: *Temple & Co.*; *Solicitor, Board of Trade.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

NEW COMMISSIONS

BURY ST. EDMUNDS

Ronald Victor Willcox, 8, Grave Road, Bury St. Edmunds.

WORCESTER CITY

Thomas Stanley Bennett, Manor House, Lower Wick, Worcester.

Mrs. Margaret Isabel Braley, The Old Precentry, College Yard, Worcester.

Jeffrey Cooper Bullock, Sinton Court, Hallow, Worcester.

Frederick William Davis, 15, Graham Road, St. Johns, Worcester.

Mrs. Molly Patricia Edwards, Birchwood Hall, Storridge, Nr. Malvern.

Miss Helen Mary Pollard, Battenhall Grange, Worcester.

Frederic Cornwall Roy, The Cables, 120, Ombersley Road, Worcester.

Sidney Sharples, Barn Hey, 24, Hill View Road, Worcester.

Joseph Williams, 8, Diglis Avenue, Worcester.

REVIEWS

Paterson's Licensing Acts. By F. Morton Smith, B.A. London: Butterworth & Co. (Publishers) Ltd., Shaw & Sons, Ltd. Price 47s. 6d., postage 1s. 6d. extra.

This work, the fifty-ninth edition of which appeared once again in good time before annual brewster sessions, remains pre-eminent as a synopsis of the licensing law of England. It is, indeed, an amazing work: new every January is our admiration that the whole law of what has become a considerable subject is to be found within its familiar yellow covers. It is in its completeness that its value lies, as many practitioners in licensing work have discovered on their travels into remote spots during the too short brewster sessions' season in the legal calendar. How very convenient it is to carry a whole library of licensing law in a single volume! This, we suppose was ever so; and it is interesting to have this demonstration of the growth of the law which falls within the extending ambit of licensing as we compare this edition with its earliest predecessor. This edition contains 1,686 pages (with comprehensive index of 201 pages): the parent work of James Paterson, first published in 1872, had 199 pages with twelve pages of index.

Mr. Morton Smith, in his preface, laments that it has not yet been thought fit to bring into force Part II of the Licensing Act, 1949, and the corresponding provisions of the Justices of the Peace Act, 1949, which together recast the law relating to the appointment and constitution of licensing authorities. There would seem now to be no impediment why these provisions should not be brought into force, and we may expect the appropriate Orders to be made after the conclusion of the business of compensation authorities this year. In any case, Mr. Morton Smith has done all that painstaking editorship finds it possible to do, for prospective changes in the law are clearly indicated in bold type wherever these changes occur, and a further help to users of the work is contained in a summary of the provisions of the new law set out in an addendum at the end of the text. No doubt Mr. Morton Smith will include in the next edition a note of the offences created by the Act of 1949 in the comprehensive "Table of Offences" set out on pp. 1661 *et seq.*

All new statute law falling within the ambit of the subject matter (including the Shops Act, 1950) has been included, with full annotations, in the text; and cases decided during the year have been mentioned in their appropriate places. With diffidence, we would suggest that an additional reference to the case of *Carter* v. *Pickering* (1949) 113 J.P. 132, might usefully be added in a footnote to the important s. 73 (1) of the Finance Act, 1947, on p. 1153, to emphasize that where a current on-licence is surrendered as part of a scheme wherein it is replaced by a new on-licence, the surrender takes effect on or before the grant of an excise licence in pursuance of the new licence; not when the application is made for a new licence to the licensing justices. We mention this because questions addressed to this journal as Practical Points lead us to suppose that practitioners are still finding some difficulty in construing s. 73 (1) of the Act of 1947.

On all points which call for the critical attention of a reviewer, we commend to our readers this fifty-ninth edition of an invaluable work.

Jackson and Gosset on Investigation of Title. Sixth Edition. By E. H. Bodkin. London: Stevens and Sons, Ltd. Price £2 10s. net.

This is the sixth edition of a work which first appeared in 1898. The fifth edition was in 1946; a sixth has already become necessary because (largely) of the complications brought into real property by the Town and Country Planning Act, 1947, and the difficulties arising out of rent restriction. It is still unfortunately true, that many persons of small means will spend money on acquiring property, freehold or leasehold, without being willing to pay for expert examination of the title, or for ascertaining what restrictions on its use, or what burdens to be defrayed out of the income it produces, are outstanding against them. The purchaser of relatively substantial means is, usually, more cautious, and will not part with his money until the title has been investigated by his solicitor. That there is so great complication about title, notwithstanding statutory simplifications effected in the fifty years during which this book has been available, is not creditable to English law, although it is fair to say that many of the matters which the purchaser's solicitor has to look into arise less from difficulties of title than from modern statutory restrictions, limitations, or charges. Whether or not registration of title becomes universally compulsory within any measurable period, there will (it is to be feared) still be the complications of development permissions, development charges, the numerous charges due to local authorities and payable by instalments, and the difficulty which a purchaser may find in getting possession of property, because of the privileges granted to agricultural tenants and to the tenants of small dwelling houses. As a guide to all these matters, the practising solicitor needs an up-to-date textbook: the things which he learned as an examinee, and worked through as an articled clerk, are likely, all too soon, to want supplementing in the light of developments coming year by year. We do not, by the way, find in the present work any statement of the date up to which it is complete. It is dated 1950, and reached us for review at the beginning of 1951, but the latest statute mentioned in the table of statutes at the beginning is in 1949. Provisions of the Finance Act, 1950, and the Civil Aviation Act, 1949, are cited in a note of *addenda*, the former as being references to the "Finance Bill." The Bill passed into law on July 28, so that the book presumably went to press in the first half of last year. Although, so far as we can judge, it is in fact up to date, we think that, in these days, the practice adopted by some publishers is to be commended, of stating prominently the time up to which revision has been completed. A valuable introductory section sets out the steps which the solicitor normally has to take, in examining title on behalf of a purchaser, divided into those which are usual for all kinds of property and those peculiar to freeholds, leaseholds, and certain special cases. It is still unfortunately necessary to lay stress on the distinctions between abstracts earlier than and later than 1925, and this is duly emphasized. Thereafter, the main arrangement of the book is under alphabetical headings. The results would look odd to a person unacquainted with the peculiarities of English land law, with live and dead, or moribund, topics appearing equally important: the key to this method is to be found in the introductory chapter already mentioned, reminding the practitioner what are the topics which he has to look for. From our own point of view we have, naturally, looked for such headings as Town Planning and Land Charges. Of these, the former is short but probably gives enough information to point the way to what has to be searched for. Land Charges are tucked away under a more general heading, "Searches and inquiries"; local land charges, which of course particularly interest us, follow under the same broad heading. We are not sure that it is wise, to conceal these very important items in this way, while private street works (charges for which can be a matter of extreme annoyance to a purchaser) eluded us, both in the text and in the index, until we traced them through the table of statutes and found them under the heading "street improvements," which seems to us unsuitable. Similarly, we should have thought the liability to compulsory purchase by some public authority was a matter to which attention should be very prominently drawn: we succeeded in tracing this only by looking at the Lands Clauses Consolidation Act, 1845, in the table of statutes, and very little is said about it as a risk for purchasers to be prepared for. No doubt these criticisms spring from our preoccupation with the local authority's outlook: a solicitor in general practice might regard these topics as being of less importance than they seem to us to bear.

Tristram and Coote's Probate Practice. Third (Cumulative) Supplement. By H. A. Darling and T. R. Moore. London: Butterworth & Co. (Publishers) Ltd. Price 7s. 6d.

Probate practice is one of the matters with which every practising solicitor must be familiar, and for longer than any lifetime now subsisting *Tristram and Coote* has been a standard source of information. The present cumulative supplement brings the necessary information up to date, as at the end of the parliamentary session in August, 1950. In the preceding twelve months Parliament had been busy, altering not only the substance but the arrangement of the law in the Marriage Act, 1949; the Adoption Act, 1950; and the usual assortment of provisions in the Finance Acts. The Fees Rules have also been consolidated in 1950. These alterations with a good deal of modern case law, some of it only just reported, will be found set out here in the style which is now well established for cumulative supplements to Messrs. Butterworths Modern Text Books. The main work and supplement together can be obtained for 80s. net.

First Aid and Fire Precautions (including animals and air raids). Seventh Edition. Issued with the approval of the Home Office by the R.S.P.C.A., 105, Jermyn Street, London, S.W.1. Price 6d.

We heartily recommend this booklet. As it says, war is not inevitable, but it is better to be prepared, and anyhow, fires occur in peace time, and animals and birds get injured. This book, with its concise text and clear illustrations, tells those who own or have charge of animals, exactly what to do for all sorts of injuries pending the arrival of the veterinary surgeon. There is also sound advice on how to behave so as to calm frightened animals and what drugs may be used with safety. If destruction is the kindest course to take, what to do is also told in these few pages.

THE WEEK IN PARLIAMENT

By Our Lobby Correspondent

COMMISSIONS OF THE PEACE

At question time in the Commons, Sir G. Jeffreys (Petersfield), asked the Secretary of State for the Home Department when it was intended to bring into effect the provisions of the Justices of the Peace Act, 1949, abolishing the separate commissions of the peace of non-county boroughs.

The Secretary of State for the Home Department, Mr. Chuter Ede, replied that it was intended to bring s. 10 of the Act (which abolished certain commissions of the peace) into force on October 1 next. It was, however, just possible that on further detailed examination legal difficulties of a technical character might be found in the way of that date and a definite announcement would be made as soon as possible.

CRUELTY TO CHILDREN: PENALTIES

Mr. P. Roberts (Heeley) asked the Secretary of State for the Home Department whether he would introduce legislation to enable magistrates in courts of first instance to impose heavier penalties for proven cases of cruelty to children.

Mr. Ede replied that courts of first instance had power to impose, for cruelty to a child, a fine of £25 or six months' imprisonment, or both; or they might remit the case to a superior court which might impose a fine of £100 or two years' imprisonment or both. He did not think that those powers were inadequate.

DOG LICENCES (CONVICTIONS)

In reply to Mr. T. C. Pannell (Leeds W.), Mr. Ede stated that the number of convictions in England and Wales in 1949 against persons who failed to take out licences for dogs was 16,121. The provisional figure for the first eleven months of 1950 was 14,761.

COMMON INFORMERS BILL

A unanimous Second Reading was given to the Common Informers Bill introduced by Mr. Lionel Heald (Chertsey).

Mr. Heald said that it was the essence of our respect for law and order in this country that every citizen should regard it as his duty to assist in the enforcement of the law and the protection and the prevention of breaches of it, and therefore to inform the police of any significant breach of law that might come to his notice. Indeed, to fail to give such information might have serious consequences, particularly in such cases as what were known as misprision, treason or felony.

The Bill was designed to abolish all the statutory provisions which enabled a person who had no interest in the matter, except as a member of the public, to get paid in effect for doing his duty. The mere fact that it was the duty of everyone to give information of breaches of the law made it all the more important that that should be done without, as it was once said by a judge, enlisting motives of private greed.

Supporters of the Bill thought it was wrong that such a person should be allowed to adopt the dignified role of a plaintiff in a court of justice where his motives and his behaviour might lead, as they had led in recent times, to the law being brought into disrepute, if not actually into contempt. It was inevitable that blackmailing methods would be adopted and would flourish when a private person was a party to litigation. He was not concerned with the redress of his own wrongs or the furtherance of his own rights, but was simply under an option as to whether he would or would not demand a penalty. The results of that were quite inevitable.

Mr. Heald pointed out that there had been no new enactment of the common informer procedure in the last hundred years. It was proposed that the Bill should come into operation on September 1, 1951.

The Attorney-General, Sir Hartley Shawcross, who supported the Bill for the Government, said it was a measure which would remove from the legal arena an animal who at one time served sometimes a useful purpose but who was now universally regarded with rather general dislike.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

DAMAGE BY DRAINAGE BOARD

I was interested in your reply to P.P. 3 at p. 15. I have often had to consider the question of compensation in connexion with the work of a catchment board, but I think that the matter has recently been satisfactorily settled. In *Marriage* v. *East Norfolk Rivers Catchment Board* [1949] 2 All E.R. 50; 113 J.P. 362, counsel for the catchment board (the defendants), replying to the argument on behalf of the plaintiff that the section was concerned only with the *quantum* of compensation, cited *Rhodes* v. *Airedale Drainage Commissioners* (1876) 1 C.P.D. 402, and *Hall* v. *Bristol Corporation* (1867) 31 J.P. 376. Byrne, J., whose judgment was upheld by the Court of Appeal stated that these cases appeared to him to establish the proposition that in a case in which there is a dispute with regard to compensation, an arbitrator has to determine first whether there was injury which would have given a right of action but for the statute, and secondly, if there was, the proper amount of compensation.

Yours faithfully,
S. VINCENT ELLIS,
Deputy Clerk.

River Great Ouse Catchment Board,
Elmhurst, Brooklands Avenue,
Cambridge.

[We are obliged to our learned correspondent, and to another who has given us the same references, to the case of 1949 supporting our view at p. 15.—*Ed., J.P. and L.G.R.*]

NOTICES

The next court of quarter sessions for the city of Hereford will be held on March 2 at the Shirehall, Hereford, at 10.30 *a.m.*

The next court of quarter sessions for the borough of Richmond, Yorks, will be held on Thursday, February 22, at 11 *a.m.*

PERSONALIA

APPOINTMENTS

Mr. John Collins Nelson, town clerk of Gillingham, has been appointed town clerk and clerk of the peace of the county borough of Ipswich.

Mr. J. K. Boynton, senior assistant solictor to Derbyshire county council, has been appointed deputy clerk of the council and of the peace for Berkshire.

Mr. R. C. Huntriss, clerk to the Brackly Justices, has, in addition, been appointed clerk to the Banbury and Bloxham Justices. Mr. Huntriss was articled to Messrs. Stockton, Sons & Fortescue of Banbury and was admitted in 1937. During the war he held a commission in the Royal Artillery.

OBITUARY

Alderman Charles Day, J.P., an ex-mayor of Boston, and a member of the borough council for over thirty-seven years, died on February 3. He was chairman of the Highways Committee for twenty-five years.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Thursday, February 8

RAG FLOCK AND OTHER FILLING MATERIALS BILL, read 1a.

HOUSE OF COMMONS

Tuesday, February 6

WORKMEN'S COMPENSATION (SUPPLEMENTATION) BILL, read 1a.

Wednesday, February 7

SUPPLIES AND SERVICES (DEFENCE PURPOSES) BILL, read 1a.

Friday, February 9

COMMON INFORMERS BILL, read 2a.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Children and Young Persons—*Contribution orders under the* 1933 *and* 1948 *Acts—Possibility of securing contributions by agreement instead of by court order.*

I was interested to see the question raised by your contributor at P.P. 1, 114 J.P.N. 544, and, in particular, the words "nor did X sign any enforceable agreement to contribute towards the expenses of maintaining his children."

I have recently been considering the remedies available to local authorities against parents who default in varying circumstances in meeting the obligation imposed upon them under ss. 23 and 24 of the Children Act, 1948, and s. 86 of the Children and Young Persons Act, 1933, and I have reached the conclusion that, leaving aside the question of a speciality contract, unless there is a court order in force there is no means of enforcing payment of a contribution which a committee have "assessed" a parent as liable to pay towards the expenses of maintaining his children.

The relevant statutory provisions are those contained in ss. 86 and 87 of the Act of 1933 as amended and applied by ss. 23 and 24 of the 1948 Act.

If proceedings have been taken, and an order obtained, under s. 87, the matter is clear. If proceedings have not been so taken nor is there an "agreement" of any kind the matter seems equally clear—the statute has provided a remedy (s. 87) for the enforcement of the statutory obligation and accordingly no other remedy is properly available (31 *Halsbury* 551, para. 740). Is it possible, however, to go outside ss. 86 and 87 and make an "agreement" with a liable relative which would be enforceable apart from the statutory provisions? Covenants under seal would be impracticable in most circumstances, and the difficulty in the ordinary case is to find any consideration for such an "agreement."

Children come into care either as a result of a "fit person" order under s. 61 of the 1933 Act or as a result of action taken by the local authority under s. 1 of the Act of 1948. By s. 5 of the 1948 Act a local authority is under an obligation to act as a fit person and accordingly to receive the child into care—a duty to the performance of which they cannot attach conditions; and the performance of an existing statutory duty cannot be consideration for a collateral promise (*cf. Glassbrook Bros.* v. *Glamorgan County Council*). Similarly, under s. 1 of the 1948 Act, in the circumstances there cited, the local authority have a duty to take a child into care; if the duty exists there can be no consideration. If the duty does not exist, they have no power to take the child into care.

On these considerations one is forced to the conclusion that in the absence of a contribution order under s. 87, and apart from a covenant under seal, there is no means by which a local authority can recover contributions payable under the above statutory provisions. I should be pleased to have your observations on the matter. J.A.G.B

Answer.

We think that our correspondent is correct in saying that there is no basis for a valid agreement. Parents are sometimes willing voluntarily to make payments, but if any question of enforcement is likely to arise a court order should be obtained.

2.—Guardianship of Infants—*Jurisdiction—Orders made before R.* v. *Sandbach Justices, ex parte Smith* [1950] 2 *All E.R.* 781—*Enforcement and variation of such orders.*

The decision in the above case seems to be in conflict with general opinion previously held and, indeed, my court has made several orders under the above Act when in fact, according to the above decision, they had no jurisdiction.

I should therefore like an opinion as to whether all Guardianship of Infants orders made by magistrates' courts having jurisdiction only where the wife resides, the husband living elsewhere, are void, and if the answer is in the affirmative should collecting officers continue to receive payments under such orders. I have no doubt that the decision of the High Court and its implications will be the subject of an article when the matter dealt with at length but my immediate problem is that the mother of an infant was granted a Guardianship of Infants order for custody and maintenance of her son by my court when the respondent was never within the jurisdiction of my court and she now wishes to apply for increased maintenance by way of a variation of the order. I should therefore like to be informed what advice to give this woman who is unrepresented.

Would my court be in order in varying the order which, in view of the above decision, appears to be void, or should the woman apply for a completely fresh order within the jurisdiction of the respondent's court? JAM.

Answer.

We can find no authority on this point, and we think that the general principle to be followed is that a summary court should act upon its own orders and upon those made by other courts if such orders have not been set aside by a higher court.

We think, therefore, that the justices should entertain the application to vary the order in question, leaving the husband, if he wishes, to take such steps as may be open to him to get the order set aside.

3.—Local Government Superannuation Act, 1937—*New contributory employee—Previous period of employment by local authority officer—Non-contributory service—Articled clerk.*

An assistant solicitor in the service of a local authority was appointed to the post which he holds shortly after (i) the completion by him of a continuous period of three years' articles which he served with the whole-time solicitor-clerk of another local authority; during this service he received no remuneration from either such solicitor-clerk or the last-mentioned local authority, and (ii) his having become qualified by examination for admission to the roll of solicitors, to which he was in fact admitted.

In connexion with the necessary action on the part of the assistant solicitor's employing local authority in relation to him under Part II of the Local Government Superannuation (Administration) Regulations, 1938, the question has arisen whether or not, on the authority of s. 12 (6) of the Act of 1937, his three years' period of articled service could or should be taken into account in reckoning his non-contributing service for the purposes of the computation of a superannuation allowance under such Act. Since the solicitor-clerk to whom the assistant solicitor was articled has stated, in answer to an inquiry made on behalf of the latter's employing local authority, that "during his service under articles he assisted generally in the normal work" of such solicitor-clerk's department "as well as performing the legal duties required of him under his articles of clerkship," it appears that the second pre-requisite mentioned in s. 12 (6) of the Act of 1937 (namely that have he should been for a continuous period of not less than three years engaged wholly or mainly in a performance of duties relating to the functions of the local authority in the employment of whose officer he was or might have been for a continuous period of not less than three years) is satisfied. It seems much less clear, however, that the first prerequisite mentioned in the subsection (namely that he should have been "for a continuous period of not less than three years in the employment of an officer of a local authority") is satisfied. In the last note on s. 12 of the Act of 1937 appearing on p. 45 of the 1947 edition of *Simonds' Local Government Superannuation Act*, 1937, the opinion is expressed that "the question whether an articled clerk bound by articles to a solicitor-town clerk for a period of three or five years is, during that period, in the employment of an officer of a local authority within the meaning of s. 12 (6) of the Act of 1937, is one of doubt," but the rest of such note does not seem very helpful.

The point is of considerable importance to him because he is of such an age that, if he would be entitled to reckon his three years' period of articles as non-contributing service for the purpose of qualifying for, and the computation of, a superannuation allowance under the Local Government Superannuation Act, 1937, he would be able not only (i) to reckon for such purposes a full forty years of qualifying service but also (ii) to qualify for such an allowance (on completing forty years of qualifying service) before attaining the age of sixty-five, whereas, if he would not be so entitled, he would be able neither (i) to complete a full forty years of qualifying service before reaching retirement age, nor, therefore, (ii) to qualify for such an allowance before reaching the age of sixty-five years should he wish to retire before attaining that age.

In the relevant minute in relation to the action so far taken by the assistant solicitor's employing local authority under Part II of the Regulations of 1938, it is recorded that there was to be "shown in the statement to accompany the notification to be issued to "the assistant solicitor under such regulations "no information with regard to previous service (if any) which he is entitled to reckon, and the class of service into which it falls, on the grounds that such information is not immediately available, with a view to such information being furnished to him within six months of the date of such notification pursuant to the proviso in para. (2) of art. 5 of such regulations."

In view of the terms of such minute, which so plainly records that the assistant solicitor's employing council have purported to act under para. (2) of art. 5 of the regulations of 1938, it will shortly be necessary for that council to take further action under such article.

As it seems unlikely that the assistant solicitor would (assuming that he could) appeal against an adverse decision by his employing local authority, *i.e.*, a decision against a " determination " in his favour under s. 12 (6) of the Act of 1937, your opinion is sought as to whether, on the facts given, it would be competent for such employing local authority (i) to arrive at a " finding," for the purposes of action under Part II of the regulations of 1938, that, on the authority of s. 12 (6) of the Act of 1937, his three years' period of articled service is service which could become reckonable as non-contributing service for the purposes of the computation of a superannuation allowance under such Act in the event of their so " determining " under the subsection, and (ii) to " determine " under the subsection that the whole or part of it shall be so reckonable. ARL.

Answer.

The last paragraph of the note in *Simonds* (edition of 1947) says : " It can be argued that a person who is articled to a solicitor-town clerk is articled to him *qua* solicitor, and therefore is not in his employment as an officer of a local authority." We agree this can be argued, but the subsection does not say " in his employment as " ; it says " in the employment of." The solicitor-clerk's cook and butler are ruled out by the second limb of the subsection : " engaged wholly or mainly in the performance of duties relating to the functions of that authority." His shorthand secretary and clerk for general filing may or may not be so engaged ; his costs clerk, if he has a private practice, will pretty certainly not be. As you will gather, it seems to us a question of fact, whether an employee is wholly or mainly engaged in this or that. To say that an articled clerk " assisted generally in the normal work " of the office falls short of " wholly or mainly," but it could happen that his share of " normal work " *plus* " the legal duties required of him " occupied the " main " part of his time. The fact that the solicitor-clerk was a whole-time clerk may have a bearing. Thus an articled clerk commonly spends much time in drawing deeds ; in the case put to us these will have been for local government purposes, not for the purposes of private clients. We certainly think, upon this part of the case, that the employing authority can find as a fact, if they feel justified in so finding, that the man was " wholly or mainly " engaged, etc., etc. If they are satisfied, nobody will be concerned to upset their finding—it is not the sort of case where the District Auditor would do so.

Upon the other part of the case, which you find more doubtful, we feel no difficulty. An articled clerk, like a tradesman's apprentice, has a dual nature ; he is a pupil but he is also a servant, in the general sense that in the work he does he must obey the orders of the master, the test adopted in *Yewens* v. *Noakes* (1880) 45 J.P. 468. Although some statutes (*e.g.*, the Workmen's Compensation Acts) have spoken, for the prevention of doubt, of service and apprenticeship there is at any rate no doubt in our mind that an apprentice or articled clerk is in the employment of his master for the present purpose. In statutes of this sort the context and purpose must be considered : suppose a part-time solicitor-clerk to have two clerks not under articles—A works in the private practice, B upon council business. Afterwards both become local government officers. Clearly B counts his service under the clerk, while A does not. We cannot draw a distinction, for this purpose, according as B was or was not articled ; if such a distinction were drawn, it would mean that a lad, who entered the office at eighteen and as a reward for diligence was taken into articles at twenty, could count the first two years but not the ensuing years, while a desk-fellow who was not diligent or intelligent enough to be articled could count all his service.

4.—Road Traffic Acts—*Notice of intended prosecution—Failure by defendant to stop after accident and alleged dangerous driving—Is this conduct contributing to the failure to serve notice within fourteen days?*

A defendant is charged with driving a motor vehicle in a manner dangerous to the public. The offence is alleged to have been committed on August 6, 1950. The incident was witnessed by a police officer, who, because he was concerned with possible injuries to the driver of the second vehicle involved, did not stop the defendant, but simply noted the registration number of the defendant's car. The defendant did not stop and will give evidence that he did not know that he had been involved in an accident within the meaning of s. 22 of the Road Traffic Act, 1930. The police officer passed on by telephone the registration number he had noted with a view to tracing the driver or registered owner of the vehicle. This telephone message was misheard by the police officer taking the message, with the result that several days were wasted while the owner of a vehicle not concerned with the accident was interviewed. Further police inquiries were made and as a result the licensing authority sent to the police on August 16, 1950, information as to the registered owner of the vehicle concerned. The police received such notice on August 17, 1950, but it did not reach the hands of the officer responsible for sending the notice of intended prosecution until August 21, 1950. Notice of intended prosecution was despatched to the defendant on the same day.

The defendant takes the point that the requirements of s. 21 of the Road Traffic Act, 1930, have not been complied with as to the notice being sent within fourteen days of the alleged offence. The police contend, although the defendant has not been prosecuted for an offence under s. 22 of the Act, that the defendant should have stopped on being involved in the accident. As he did not do so, the police argue that the defendant " by his own conduct contributed " to the failure to send the notice within the prescribed period. Assuming the court finds as a fact that the defendant knew he had been involved in the accident and had a statutory duty to stop, but did not do so, do you consider he did " contribute " to the failure to send the notice in time ? The defendant will argue that assuming he is found to have failed to stop as required, the fact remains that the police knew the registered owner of the vehicle on the eleventh day following the accident and he did not in any way contribute to the failure to send the notice on the remaining two days. The police say he was responsible for the first ten days being wasted by his failure to stop. JINX.

Answer.

On the first point we think that the justices are entitled to hold that the facts of this case do show a lack of reasonable diligence on the part of the police which led to their failure to serve the notice within fourteen days.

On the second point it is to be noted that the words " the accused by his own conduct contributed to the failure " are quite general, are not qualified in any way and appear to be quite independent of what goes before. We think, therefore, that *if the court finds as suggested in the question* the defendant's own conduct in failing to stop must be said to have contributed to the failure because he had a duty to stop and knew that he should have done so, and had he stopped his name and address could have been taken at the time and no police inquiries from the licensing authority would have been necessary.

We do not think that *Clarke* v. *Mould* [1945] 2 All E.R. 551 ; 109 J.P. 175, really helps, although somewhat similar questions were involved.

We think that the expression of opinion at the end of the judgment in *R.* v. *Bolkis* (1933) 97 J.P. 10, is against the view we have expressed ; but the point that the two matters are alternatives and, therefore, independent of one another does not seem to have been argued, and the High Court does not appear to have considered the matter from that aspect.

5.—Summary Jurisdiction Acts—*Previous conviction—Method of proof against a limited company.*

I wonder if you could help me with a difficulty which I anticipate will arise when I appear in court to prosecute a limited company under s. 95 of the Public Health Act, 1936, to recover a daily penalty for non-compliance with a nuisance order.

The order was made against this company to do certain work, and when the order was ignored a fine of £5 was imposed under s. 95, but still no work has been commenced, and on neither occasion was the company represented in court. The magistrates' clerk has pointed out to me that if the company are not represented, I cannot prove the previous conviction, and it appears to follow that I cannot recover a daily penalty. A similar situation arose with a private individual, but I solved the difficulty by applying for a warrant, and having him brought to the court by the police to answer the summons, but as one cannot have a company " arrested," and as appearance can only be by counsel or solicitor, I am at a loss what to do if they still choose to stay away from court.

Any suggestions you can make would be extremely welcome.

JANER.

Answer.

To prove that the company has previously been convicted it is necessary to establish by evidence both the details of the previous conviction and also the identity of the company then convicted with that of the company summoned on the new occasion. Every limited company has a certain name and a certain registered address, and it does not seem to us that it should be difficult to obtain the necessary evidence of identity. We cannot say exactly what witness or witnesses are necessary without knowing all the details.

The details of the previous conviction can be established by the production of a certified extract from the court register (Criminal Justice Administration Act, 1914, s. 28 (1)).

OFFICIAL ADVERTISEMENTS, TENDERS, ETC. (*contd.*)

BOROUGH OF GILLINGHAM

Appointment of Town Clerk

APPLICATIONS are invited for the position of Town Clerk of the Borough of Gillingham.

The commencing salary will be the minimum of the scale fixed by the Joint Negotiating Committee for Town Clerks and District Council Clerks for a local authority within the population group of 75,000—100,000.

The annual increments and conditions of service as fixed by the Committee will apply.

Particulars will be forwarded on request to the undersigned, and applications must reach me by Monday, March 12, 1951.

J. C. NELSON,
Town Clerk.

Municipal Buildings,
Gillingham, Kent.
February 12, 1951.

DERBYSHIRE COUNTY COUNCIL

Senior Assistant Solicitor

APPLICATIONS are invited for the appointment of Senior Assistant Solicitor in my Department at a salary in accordance with A.P.T. Grade X (£850—£1,000), the starting point in the scale to be fixed according to the successful candidate's experience and ability.

The person appointed will be required to pass a medical examination and the post is pensionable under the Local Government Superannuation Acts. Generally the National Joint Council's Conditions of Service will apply.

The detailed conditions of appointment and forms of application may be obtained on application to me. Completed applications accompanied by the names of three referees must reach me not later than March 12 next.

Canvassing will disqualify the candidate.

D. G. GILMAN,
Clerk of the Peace and
of the County Council.

County Offices,
Derby.

DORKING URBAN DISTRICT COUNCIL

Appointment of Clerk of the Council

APPLICATIONS for the above appointments are invited from solicitors having wide experience in local government law and administration.

The salary will be £1,200 rising by four annual increments of £50 to £1,400 per annum. The Conditions of Service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply.

The appointment will be subject to the Local Government Superannuation Act, 1937, and to the passing of a medical examination. It will be terminable by three months' notice in writing on either side.

Further particulars and form of application can be obtained from the undersigned. Applications must be returned not later than March 1, 1951.

Candidates must disclose when applying whether they are related to any member or senior officer of the Council. Canvassing directly or indirectly, will disqualify.

H. D. JEFFRIES,
Clerk of the Council.

Pippbrook,
Dorking, Surrey.

COUNTY BOROUGH OF EAST HAM

Common Law Clerk

APPLICATIONS are invited for the appointment of Common Law Clerk in the Town Clerk's Department.

Candidates must have had experience with a local authority or in a solicitor's office.

Salary in accordance with Grade APT II of the National Scales (£420×£15—£465) plus London weighting.

Forms of application (which must be returned not later than February 28, 1951), together with details of the appointment, can be obtained from the undersigned.

H. A. EDWARDS,
Town Clerk.

Town Hall,
East Ham, E.6.
February, 1951.

BERKS COMBINED PROBATION AREA

Appointment of Woman Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Woman Probation Officer for the Berks Combined Probation Area.

Candidates must not be less than twenty-three nor more than forty years of age, except in the case of a serving whole-time Probation Officer.

The appointment will be subject to the Probation Rules, 1949 (as amended). Candidates should state whether they have, or are able to drive, a car. The successful candidate will be required to pass a medical examination.

Forms of application can be obtained by sending a stamped addressed envelope to the undersigned, and must be completed and returned not later than March 5, 1951.

H. J. C. NEOBARD,
Clerk of the Berks Probation
(Combined Area) Committee.

Shire Hall,
Reading.

COUNTY BOROUGH OF ST. HELENS

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor in the Town Clerk's Department at a salary in accordance with A.P.T. Grade VII of the National Scales, namely, £635—£710 per annum.

The commencing salary will be fixed within the Grade according to the qualifications and experience of the successful applicant.

The appointment is subject to the Scheme of Conditions of Service of the National Joint Council for Local Authorities' Administrative, Professional, Technical and Clerical Services and to the provisions of the Local Government Superannuation Act, 1937.

The successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with copies of three recent testimonials, should be sent to the undersigned not later than February 26, 1951.

Canvassing, directly or indirectly, will be deemed a disqualification.

W. H. POLLITT,
Town Clerk.

Town Hall,
St. Helens.
February 6, 1951.

COUNTY BOROUGH OF READING

Appointment of Second Assistant Solicitor

APPLICATIONS are invited for the permanent post of Second Assistant Solicitor in the Town Clerk's Office. The salary will be in accordance with the National Scales of Salaries, *viz.*, A.P.T. V$_A$ (£550×£20—£610) and VII after two years' legal experience from the date of admission. The commencing salary will be fixed according to the qualifications and experience of the successful applicant.

The person appointed will be required to assist generally in the work of the department. The appointment is subject to (*a*) the National Scheme of Conditions of Service, (*b*) the Local Government Superannuation Act, 1937 (the successful applicant will be required to pass a medical examination), and (*c*) determination by one month's notice on either side.

Applications, endorsed "Second Assistant Solicitor," stating age, qualifications and experience, and giving the names and addresses of three persons to whom reference may be made, must reach me not later than March 3 next.

G. F. DARLOW,
Town Clerk.

Town Hall,
Reading.
February 16, 1951.

ETON RURAL DISTRICT COUNCIL

Appointment of Principal Assistant (Housing)

APPLICATIONS are invited for the appointment of a Principal Assistant (Housing) in the Clerk's Department at a salary up to or within Grades VI and VII of the A.P.T. Division of the National Joint Council's Scales.

Candidates must have had considerable experience of local authority housing work and be versed in the law and administration of housing. The appointee will, as part of his other duties, committee clerk the Council's Housing Committee and its several Sub-Committees. Experience with regard to related matters such as planning, drainage, etc., will be an advantage. The commencing salary will be fixed according to the experience and qualifications of the appointee.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the National Scheme of Conditions of Service. The successful applicant will be required to pass a medical examination.

Persons interested in this appointment are invited to write forthwith for fuller particulars to the undersigned.

Applications, endorsed "Principal Assistant (Housing)," should be forwarded to the undersigned not later than ten days after the publication of this advertisement with copy of one recent testimonial and particulars of two referees.

Canvassing in any form will disqualify.

G. L. BRIDGER,
Clerk.

Council Offices,
Windsor Road,
Slough.
February, 1951.

COUNTY BOROUGH OF CROYDON

Appointment of Whole-time Senior Male Probation Officer

APPLICATIONS are invited for this appointment.

The appointment and salary will be in accordance with the Probation Rules, 1949, as amended by the Probation Rules, 1950, with an additional £50 in respect of senior duties.

Applications, stating age, present position, qualifications and experience, together with copies of two recent testimonials, must reach the undersigned within fourteen days of the publication of this advertisement.

OLIVER A. MILAN,
Secretary to the Probation Committee.

Magistrates' Clerk's Office,
Town Hall,
Croydon.
February 12, 1951.

COUNTY OF KENT

Petty Sessional Divison of Bromley

Appointment of Third Assistant Clerk

APPLICATIONS are invited for the appointment of a male third assistant to the Clerk to the Justices.

Applicants should have general magisterial experience and be capable of taking a court.

The commencing salary is £500 and it will be reviewed after the expiration of twelve months' satisfactory service.

Applications, stating age, present position and experience, together with two recent testimonials, should be sent to the undersigned not later than March 7, 1951. Envelopes should be marked "Assistant Clerk."

T. W. DRAYCOTT,
Clerk to the Justices.

The Court House,
South Street,
Bromley, Kent.
February 16, 1951.

COUNTY OF MONMOUTH

Bedwellty Probation Area

Senior Probation Officer

APPLICATIONS are invited from serving male Probation Officers for the post of Senior Probation Officer.

The appointment will be made subject to the Probation Rules and the salary will be on the scale provided by the Rules and with an annual allowance of £50 in addition.

Applications, stating age and experience and enclosing not more than two recent testimonials must reach the undersigned not later than Saturday, February 24, 1951.

H. E. BADMINGTON,
Secretary to the Probation Committee.

Central Chambers,
Tredegar, Mon.

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